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BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF:)
)
REGULAR MONTHLY BUSINESS)
MEETING)
)

TRANSCRIPT OF PROCEEDINGS

June 20, 2000

9:30 A.M.

CIWMB Boardroom
8800 Cal Center Drive
Sacramento, California

REPORTED BY:
Terri L. Emery,

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CHAIR MOULTON-PATTERSON: Good morning. I'd like to call the meeting to order, and welcome to the June 20th meeting of the California Integrated Waste Management Board.

Would the secretary please call the roll.

BOARD SECRETARY: Board Member Eaton.

BOARD MEMBER EATON: Here.

BOARD SECRETARY: Board Member Jones.

BOARD MEMBER JONES: Here.

BOARD SECRETARY: Board Member Medina.

BOARD MEMBER MEDINA: Here.

BOARD SECRETARY: Board Member Paparian.

BOARD MEMBER PAPARIAN: Here.

BOARD SECRETARY: Board Member Roberti.

Chair Moulton-Patterson.

CHAIR MOULTON-PATTERSON: Here.

Okay. We have a quorum.

Do any of the members have ex parte

communications? And I will start down with Mr. Eaton.

BOARD MEMBER EATON: I'm up-to-date. Thank you.

CHAIR MOULTON-PATTERSON: Mr. Jones.

BOARD MEMBER JONES: Thanks, Madam Chair.

A meeting yesterday with -- these are all on the

1 tire bill -- Terry Leveille, George Larson, Bob Houston,
2 Michael Burn, Jana Nairn, Mike Flannigan and Eloy Garcia.

3 BOARD MEMBER EATON: Did you put down Mark
4 Murray, too?

5 BOARD MEMBER JONES: And Mark Murray.

6 BOARD MEMBER EATON: I did mine on my list this
7 morning. They're supposed to fax us --

8 BOARD MEMBER JONES: I don't have a secretary.

9 BOARD MEMBER EATON: They're going to fax us a
10 list, Mr. Jones, I'm told of all of it so we can be
11 up-to-date on those because there were others in the room
12 that I didn't know as well. So we're told they're going
13 to fax us a letter.

14 CHAIR MOULTON-PATTERSON: That was at the tire
15 meeting last night?

16 BOARD MEMBER EATON: Yes.

17 BOARD MEMBER JONES: Yes. These are the ones
18 that I talked to.

19 CHAIR MOULTON-PATTERSON: Thank you, Mr. Jones.
20 Mr. Medina.

21 BOARD MEMBER MEDINA: Tuesday, June 6th, tour of
22 the West Contra Costa Sanitary Landfill in Richmond with
23 Larry Birch, Richard Granzella, Evan Edgar, Leonard
24 Stefinelli, Ricardo Martinez, Paulino Luna. Also on
25 Monday and Tuesday, June the 12th and 13th, I attended

1 the Buy National Conference on Environmental Research
2 and Policy in San Diego with Ricardo Martinez from
3 Cal/EPA.

4 CHAIR MOULTON-PATTERSON: Thank you.
5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: I've filed all my
7 reports.

8 CHAIR MOULTON-PATTERSON: Thank you. And we'll
9 call for Senator Roberti when he arrives.

10 Before we begin our reports today, I'd like to
11 say a few words as the new chair. First of all, I'd like
12 to thank my fellow colleagues for their confidence in me
13 to chair this important board, and I want to thank former
14 Chairman Dan Eaton for his leadership in helping to shape
15 California as a model in waste diversion, and along with
16 Board Member Steve Jones, helping us all look to the
17 future through the 21st century project.

18 I take this role very seriously and it's my
19 desire to lead in a spirit of openness and trust. I know
20 my fellow Board Members will want to begin to tackle the
21 many broad policy issues that are before us. We can
22 justifiably be excited that the state diversion rate has
23 grown from 10 percent in 1989 to 37 percent in 1999
24 because we know our policies are working.

25 We have created a partnership with local

1 government and private industry to rebuild an
2 infrastructure to divert waste for reuse. We must hold
3 the line on AB 939 and continue to work cooperatively
4 with our local jurisdictions in meeting their 50 percent
5 diversion goal.

6 We must applaud and recognize the outstanding
7 efforts by so many who have worked diligently to meet
8 their goal, and we must support those that are making
9 good faith efforts. The word must be clear to all that
10 this Board is serious in its commitment to diversion and
11 holding everyone accountable.

12 Our state has made a huge investment in programs
13 and facilities and we must continue to lead the shift
14 from disposal to diversion. As we begin to look at the
15 21st century, I believe we must always place the
16 education of our children at the top of our agenda just
17 as Governor Gray Davis has done. Our Board has a mandate
18 to teach our children the value of recycling, and we
19 should be so proud that our K through 12 environmental
20 educational curriculum is ranked number one nationwide.

21 The Office of Environmental Education has been
22 created and I look forward to supporting an integrated
23 curriculum that encompasses all boards and departments in
24 Cal/EPA. Along with my fellow Board Members, I sense a
25 desire to lead in the area of public safety,

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1 environmental justice and knowledge management.

2 In closing, I truly believe that the strength of
3 our Waste Board lies in our mission and our strategic
4 plan to fulfill this mission. We have such a talented
5 staff who are committed and creative. As Board Members,
6 we may have different appointing authorities and
7 different passions, but we must work cooperatively with
8 our respect for -- with respect for our differences.

9 We have before us many challenges and
10 opportunities. I look forward to working with each of
11 you and helping the Board's strategic vision to become,
12 and I quote, "The recognized national and international
13 leader in the integrated management of waste and
14 recovered materials."

15 Thank you very much for your time, and I'd like
16 to call on Board Members reports.

17 Mr. Eaton.

18 BOARD MEMBER EATON: Thank you, Madam Chair, and
19 congratulations and I wish you well. And I think those
20 words were well thought out and also well pronounced in
21 the sense that everyone shares your concern about what's
22 going to take place in the future and also about how we
23 will conduct over the next year and a half the most
24 important business we have, which is really trying to get
25 them up to speed on what's going on.

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1 Rather, since we have not had the good fortune
2 that we do right now to have a full board in the past,
3 I'll try to keep my remarks short. Really in addition to
4 a number of other meetings, the one that I would just
5 like to report on today is with regard to the Prison
6 Industries Authority, which I met with last week, and the
7 Board of the Prison Industries Authority.

8 As you well know, we are sort of held -- and
9 I'll use the word for later on -- "captive" to basically
10 having to purchase our materials for the most part from
11 the Prison Industries Authority. They have been one of
12 big sticklers for us in trying to get green procurement
13 as well as recycled content products into our public
14 marketplace for all of us.

15 I'm happy to report at least that the Board once
16 and for all, the actual Board as opposed to the staff,
17 has committed to not only implementing AB 75, which is
18 the state agency mandate for meeting diversion goals, but
19 also has started to begin the dialogue of perhaps getting
20 some of their vendors to actually start making recycled
21 content product, which will make it easier not only for
22 our state agencies and this state agency in particular to
23 purchase recycled content products, but to help them meet
24 their diversionary goals.

25 I think it's a good first step. I think for the

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1 first time we have their attention and their commitment
2 to us, and I think we'll be able to work with them in the
3 future.

4 CHAIR MOULTON-PATTERSON: Thank you, Mr. Eaton.

5 Mr. Jones.

6 BOARD MEMBER JONES: Thanks, Madam Chair.

7 Just two quick ones. After we left the Board
8 meeting in Visalia, I went over to Camp Roberts at the
9 request of quite a few different entities to take a look
10 at what this base closure really means and we are
11 going to -- I've had discussions with Cal/EPA to put
12 together some kind of a team that can come look at this.

13 We're going to have probably close to 17 bases
14 that are going to be turned over to the State of
15 California and we've got to get real creative in how
16 we're going to be able to dismantle those without
17 bankrupting the treasury and get those into an
18 environmental state where they can be redeveloped and
19 reused. It was a good meeting, a lot of opportunities.

20 And then earlier this -- or last week was the
21 keynote speaker at the CRRRA CAW legislation and policy
22 workshop down in Danville. Pretty good day. They've got
23 some ideas and we'll see what happens.

24 CHAIR MOULTON-PATTERSON: Thank you, Mr. Jones.
25 Mr. Medina, did you have any other --

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1 BOARD MEMBER MEDINA: Just briefly regarding the
2 Buy National Conference reflecting the Governor's
3 continued efforts to improve relationships with Mexico
4 and also the Secretary Hickox continued efforts in regard
5 to the environment.

6 I attended a Buy National Conference at the
7 University of California at San Diego where they dealt
8 with air and water quality issues along the border, also
9 hazardous waste and solid waste issues.

10 I'm glad that I had the opportunity to attend
11 that.

12 CHAIR MOULTON-PATTERSON: Thank you, Mr. Medina.
13 Mr. Paparian.

14 BOARD MEMBER PAPARIAN: In the past month the
15 staff here has been most helpful in bringing me up to
16 speed on a number of the board programs and preparing me
17 in taking on this role. It's -- I wanted to mention a
18 couple other things.

19 Many of us know Rick Best, who has been in the
20 hospital after an accident. I visited him last week and
21 I also visited him about two or three weeks ago and the

22 difference was remarkable. He's really recovering quite
23 well from his accident. Hopefully we'll be seeing him
24 again here soon.

25 I have -- I thought I would also mention the

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1 staffing situation in my office. I'm finally pleased to
2 announce that I have a couple of staff who will be
3 joining me. Peggy Farrell, currently secretary in Julie
4 Nauman's office, I've stolen Peggy and she's going to
5 come over and be my executive secretary, and Mark
6 Kennedy, who is currently in Local Assistance, is going
7 to become a committee analyst in an out-of-class
8 assignment, both starting in a couple weeks.

9 CHAIR MOULTON-PATTERSON: Thank you. And please
10 give our best to Mr. Best. We're really glad he's doing
11 well.

12 I would like to, just in addition to my report,
13 ask that you notice the beautiful artwork around the
14 room. It's displayed around the boardroom today. These
15 posters that you see are the grand prize winners of a
16 coloring contest the Board conducted to kick off the open
17 application period of one of our programs, WRAP, which
18 stands for the waste reduction awards program.

19 And as many of you know, our Board wants to
20 recognize deserving businesses and non-profit

21 organizations with a WRAP award. Those who voluntarily
22 reduce waste and manage resources efficiently and
23 consequently make a substantial contribution towards
24 communities achieving their AB 939 goals.
25 So we're really proud of those coloring contest

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1 award winners and they're framed with recyclable
2 materials, and I hope you'll take the time today to take
3 a look at them. We're really proud of all the children
4 and adults that entered the contest.

5 As far as our WRAP application goes, the annual
6 WRAP application period is now through June 30th. So if
7 you own a business that's really making a great effort or
8 if you know of one, please encourage them to apply.
9 Self-nomination award programs, you can nominate yourself
10 for businesses and non-profit organizations.

11 The applications are available on the table in
12 the back of the boardroom. Please feel free to take one,
13 fill it out and return it to us or pass it along, as I
14 say, to your favorite business.

15 Also, I would like to say that Mr. Eaton was
16 kind enough to let me as the new chair accept this award.
17 He did the work. He served on the Keep California Board
18 and First Lady Sharon Davis awarded this to our Board and

19 to Mr. Eaton's efforts in contributing to the Keep
20 California Beautiful Foundation. So I was really proud
21 to accept this.

22 And do we have a trophy case? I know we've
23 talked of one. I'm not sure. I meant to look. We have
24 one Fritz says. So this can go in our trophy case.

25 BOARD MEMBER EATON: I also talked to PIA about

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1 that, that we needed one of those, first and foremost,
2 made out of recycled material.

3 CHAIR MOULTON-PATTERSON: Good. Thank you.

4 I already goofed up. I meant to let the
5 audience know, for those of you that would like to speak,
6 there's speaker request forms on the back table. If you
7 wish to address any items on the agenda, please fill out
8 a slip with the specific item or items you plan on
9 addressing, as well as the item number, and give it to
10 Ms. Villa, who is up here, and she'll be sure and let me
11 know that you have a desire to speak on an item.

12 I see no continued business agenda items, but I
13 would like to note for the agenda record that Number 5
14 was pulled, and Item Number 18 was pulled at the request
15 of Temple City.

16 MR. CHANDLER: Taking your cues from Mr. Eaton.

17 (Laughter)

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18 BOARD MEMBER EATON: You'll do just fine as a
19 Chair. You'll do just marvelous. Trust me. You've
20 already begun the process. Keep the tradition.

21 (Laughter)

22 CHAIR MOULTON-PATTERSON: Thank you. Our
23 Executive Director's report, Mr. Chandler. Thank you.

24 MR. CHANDLER: Thank you, Madam Chair. I do
25 have a number of items I would like to briefly speak to

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1 this morning.

2 I would like to begin with making a comment
3 about Item Number 14 on our agenda today, the Board's own
4 integrated waste management plan developed to comply with
5 the requirements of Assembly Bill 75. The plan documents
6 are a success in achieving a diversion rate of 69
7 percent, far surpassing the 50 percent the law requires
8 by January 1st of 2004. Development of this plan require
9 resources from all divisions of the Board, and I would
10 like to recognize the outstanding job that Rosita Polo
11 has done as our Waste Reduction Coordinator, and also the
12 Project Recycle staff for their support and assistance.

13 Although we already meet the requirements of AB
14 75, we will continue to expand our existing efforts and
15 implement new programs. We can and will challenge
16 ourselves and maximize our total diversion as a model for

17 other state agencies.

18 Secondly, I would like to speak to some upcoming
19 organic workshops. As you know, we have scheduled a
20 series of workshops in July and August to begin public
21 discussion of proposed revisions to the Board's organic
22 regulations. The initial draft of the regulations,
23 intended as a starting point for discussion, is scheduled
24 to be available on our web site by June 30th.

25 These workshops mark the opening of what we

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1 refer to as the informal comment period in our rulemaking
2 effort. This is something that the Board has routinely
3 done in the past, above and beyond the requirements of
4 the Administrative Procedures Act. That is to make the
5 development of regulations a truly open public process.
6 It allows us to address many of the concerns raised by
7 the regulated community before we enter the formal
8 rulemaking process.

9 Using comments received in the workshop, staff
10 will prepare a second draft of the regulations that will
11 be presented to the Board in late summer or early fall,
12 and at that time staff will ask the Board for its
13 approval to begin the formal rulemaking process.

14 Thirdly, I would like to speak to some successes
15 in our 2136 program, one of the Board's most visible and

16 successful efforts and involves the remediation and
17 restoration work conducted under our solid waste disposal
18 and codisposal cleanup program, known as our 2136
19 program.

20 I would like to take a minute to share with you
21 some of the results of the program's work in support of
22 the Board's strategic plan. The Board -- or the programs
23 set out to establish enforcement strategies based on the
24 most difficult and complex illegal disposal cases
25 encountered by the Board and LEAs. In each of four

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1 selected cases, the Board's 2136 program played an
2 instrumental role in achieving compliance.

3 Here's a quick overview of a few projects. The
4 Board's cleanup of the Tiajuana River site in the U.S.
5 Mexico border zone in San Diego County was just completed
6 in May. Here an illegal composting facility had
7 accumulated 200,000 cubic yards of green waste,
8 construction debris and trash over a 55-acre area of
9 county park land. The cleanup work involved chipping and
10 grinding the green waste, incorporating the material
11 on-site as mulch, and removing the residual waste for
12 proper disposal. Approximately two-thirds of the waste
13 was successfully recycled.

14 The operator abandoned the site and declared

15 bankruptcy but continues to be pursued through civil
16 action brought on by state and local authorities.

17 The mobile debris box site in San Francisco was
18 cleaned up under our 2136 program in September of 1998.
19 The Board was recently successful in recovering the full
20 cost of the cleanup.

21 The Pacific Southwest Farm site, an illegal
22 bermacomposting site in San Bernardino County, involved
23 approximately 200,000 cubic yards of primarily
24 contaminated material recovery facilities screenings.
25 The site was cleaned up in 1999 under a legal settlement

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1 with responsible parties. In this case, technical
2 assistance from the Board resulted in the recycling of
3 nearly all the waste as final cover material at the
4 Milliken Landfill.

5 The Aggregate Recycling Systems highway
6 demolition debris site in Huntington Park has been a
7 major public nuisance since its creation following the
8 Northridge earthquake in 1994. We provided significant
9 technical assistance to resolve this case, including
10 preparation of a removal plan, coordination of public
11 meetings and participation in court-ordered settlement
12 hearings, and the City of Huntington Park reports that
13 the property owner, not the operator, is now preparing to

14 begin processing and removing the material, which will be
15 used as construction fill for the Alameda Corridor
16 project.

17 Certainly if you're more interested in detail
18 about any of these projects or have questions about the
19 2136 program, we'd be happy to brief you.

20 Finally, Isador Cohen School of Mentoring
21 Program, I'd like to speak to that a moment. I think
22 each of us has our own story about what makes this Board
23 such a special place to work, and perhaps having two kids
24 in elementary school and serving on a school board
25 myself, my favorite, I think, is the staff's efforts over

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1 the past four years as mentors at the Isador Cohen
2 Elementary School just north of Highway 50, a short walk
3 over the American River bypass walkway for our employees.

4 In the Spring of 1996 Trish Broderick, Don Peri
5 and myself help put together a program in which our staff
6 adopted this neighborhood elementary school. Isador
7 Cohen has a very large portion of students whose families
8 are dependent of Aid to Families with Dependent Children,
9 AFDC.

10 More than 50 members of our staff have
11 volunteered at the school. Beginning in the 96-97 school
12 year and continuing to the 99-2000 year, an average of 20

13 to 25 individuals have volunteered a combined 500 hours
14 each year. Most of this time has been committed to
15 tutoring, but many hours have also been devoted to the
16 school library, mending books and helping with Isador
17 Cohen's computer challenges. Staff has also participated
18 in the school's fundraising events.

19 As we look ahead to our move downtown at the end
20 of the year, we realize the 99-2000 school year will
21 likely be our last in this partnership. That said, I
22 wouldn't be surprised if some of our staff continued this
23 rewarding relationship with Isador Cohen School next
24 year, despite the distance.

25 I plan on saying more about this program and the

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1 staff who participated in this program in an upcoming
2 all-staff meeting next week and Chris, do we know if
3 Ms. Grabbie, the school principal is here? I know she
4 indicated she might be here to say a few words. She's
5 not here at this time.

6 I will just again announce that I will recognize
7 all staff individually at an all-staff meeting later next
8 week.

9 And that, Madam Chair and Members, completes my
10 report for this morning. Thank you very much.

11 CHAIR MOULTON-PATTERSON: Thank you,

12 Mr. Chandler, and thank you for bringing up our tutoring
13 mentoring project. I think it's just phenomenal that
14 such a high percentage of our staff have taken the time
15 to make a difference in the lives of those children.

16 Does anyone have any questions of Mr. Chandler
17 at this time? Hearing none, we'll move on to Item 6 of
18 the consent agenda and Items Number 9, 16 through 28, 30,
19 31, and 35 have been placed on the consent calendar.

20 Would any Board Member wish to pull any of the
21 items from consent?

22 Mr. Eaton.

23 BOARD MEMBER EATON: Madam Chair, I would like
24 three items, Items Number 19, 21 and 22, and they're all
25 related as it relates to a mathematical calculation. 19,

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1 21 and 22, if you would please.

2 CHAIR MOULTON-PATTERSON: Thank you, Mr. Eaton.

3 Mr. Jones.

4 BOARD MEMBER JONES: That's -- those are the
5 ones.

6 CHAIR MOULTON-PATTERSON: Okay. Mr. Medina?
7 Mr. Paparian?

8 Okay. Then we will hear the balance of the
9 consent calendar. That would be 9, 16, 17, 18, 20, 23,
10 24, 25, 26, 27, 28, 30, 31 and 35.

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11 BOARD MEMBER MEDINA: Madam Chair, I'd like to
12 move the remainder of the items.

13 BOARD MEMBER PAPARIAN: My notes suggest that
14 item was pulled and you had that on the consent calendar.

15 CHAIR MOULTON-PATTERSON: I'm sorry. Thank you
16 for that correction. Item 18 was pulled. Thank you very
17 much, Mr. Paparian.

18 I'm going to hold your motion just for a moment,
19 Mr. Medina.

20 Let the record reflect that Senator Roberti is
21 present. Senator, would you like to take a few minutes
22 before you do your ex partes?

23 BOARD MEMBER ROBERTI: No. I have them right in
24 front of me. Thank you.

25 CHAIR MOULTON-PATTERSON: Okay. We'll just go

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1 ahead with that.

2 BOARD MEMBER ROBERTI: Ex parte from Edgar and
3 Associates regarding the West Contra Costa Landfill and a
4 fax from Walter Harmon regarding compost and garbage.

5 CHAIR MOULTON-PATTERSON: Thank you very much,
6 and this gives me a good opportunity to say I am
7 up-to-date on my ex partes. I forgot that. Thank you,
8 Senator.

9 Mr. Medina moved --

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10 BOARD MEMBER MEDINA: I move the consent
11 calendar, the remainder of the consent calendar.
12 CHAIR MOULTON-PATTERSON: Thank you very much.
13 BOARD MEMBER JONES: I'll second.
14 CHAIR MOULTON-PATTERSON: We have a motion by
15 Mr. Medina, second by Mr. Jones, to move the consent
16 calendar, those numbers that I read.
17 Madam Secretary, would you call the roll,
18 please.
19 BOARD SECRETARY: Mr. Eaton.
20 BOARD MEMBER EATON: Aye.
21 BOARD SECRETARY: Mr. Jones.
22 BOARD MEMBER JONES: Aye.
23 BOARD SECRETARY: Mr. Medina.
24 BOARD MEMBER MEDINA: Aye.
25 BOARD SECRETARY: Mr. Paparian.

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1 BOARD MEMBER PAPARIAN: Aye.
2 BOARD SECRETARY: Mr. Roberti.
3 BOARD MEMBER ROBERTI: Aye.
4 BOARD SECRETARY: Chair Moulton-Patterson.
5 CHAIR MOULTON-PATTERSON: Aye.
6 Thank you very much.
7 We're moving on to Item 1, new business items,
8 and this brings us to Permits and Enforcement.

9 Ms. Nauman.

10 MS. NAUMAN: Good morning, Madam Chair and
11 Members. Julie Nauman, Deputy Director of the Permitting
12 and Enforcement Division.

13 We have a number of permits this morning and a
14 couple of other items related for you, and we will begin
15 with Item Number 1, which is consideration of a new
16 standardized permit for El Corazon Composting Facility,
17 and this is in San Diego County.

18 The staff presentation will be made by -- bear
19 with me -- Tadese Gebre-Hawariat. I will never be able
20 to say it, so Tad, just take it away.

21 CHAIR MOULTON-PATTERSON: Thank you.

22 MR. GEBRE-HAWARIAT: Good morning. I'd like to
23 begin I'm also pleased to report that with us today are
24 two people, one is Mr. Richard Gelp of the County of San
25 Diego Local Enforcement Agency, or LEA and, Ms. Mary

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1 Metava, the owner of Agri Service, the operator of the
2 facility. Both are here to answer any questions that the
3 Board Members may have on the item.

4 CHAIR MOULTON-PATTERSON: Thank you.

5 MR. GEBRE-HAWARIAT: A bit of background, El
6 Corazon is a green materials composting facility located
7 in the city of Oceanside, San Diego County. Item 14 of

8 the California Code of Regulations in Section 17857
9 requires a green materials composting facility that has
10 more than a thousand cubic yards but no more than 10,000
11 cubic yards of feedstock and active composting on-site at
12 any one time shall obtain a registration permit to
13 operate. In 1995, Agri Service was issued a registration
14 permit to operate the facility and the operation remains
15 under such permit.

16 The proposed permit is to allow for an increase
17 in the tonnage of green waste, green waste materials as
18 feedstock and active compost the facility can have
19 on-site at any given time to exceed the 10,000 cubic
20 yards limit. Specifically, it's proposed that the site
21 design capacity would be increased to 20,000 cubic yards.

22 The levels of the peak daily volumes and annual
23 loadings of green waste materials at the facility are
24 also proposed to increase over the 1995 permit.

25 Because of the quantities of green waste

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1 materials to be received, processed and composted at the
2 facility are proposed to increase beyond the levels
3 allowed under the provisions of a registration tier
4 permit, it is then required that the facility operations
5 shall be under the terms and conditions of a standardized

6 tier permit.

7 As we have presented in the table on page 1-4 of
8 the agenda item, at the time this item went to print,
9 board staff had identified two issues as to be
10 determined. One is the requirements of the California
11 Environmental Quality Act, or CEQA, which was still under
12 review. The environmental review, staff have now
13 completed their review of the submitted CEQA
14 documentation and on the basis of additional information
15 provided by the LEA, the staff are of the opinion that
16 the 1995 declaration supports the proposed standardized
17 permit.

18 Second, the consistency of the application
19 package for the proposed standardized permit with the
20 City of Oceanside amended Non-Disposal Facility Element,
21 or NDFE, and the findings of conformance with the intent
22 of the County Integrated Waste Management Plan.

23 Staff of the Board's Office of Local Assistance
24 conducted review of the submitted documents and
25 determined that the application package is not consistent

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1 with the NDFE. Specifically, the staff determined
2 approximately 50,000 tons of green waste material that's
3 proposed to be received at the facility annually exceeds
4 the 24,000 tons annual tonnage projected in the NDFE. I

5 believe the OLA staff are available to discuss the issue
6 if the Board would like.

7 Also, on page 1-5 of the agenda item, we have
8 also discussed the issues of the significant change in
9 operator compliance with the terms and conditions of the
10 permit that the LEA and Board staff have identified in
11 the operation of the facility. Specifically, the
12 operator of the El Corazon Composting Facility have on
13 occasion received green waste in excess of the 10,000
14 cubic yards allowed by a registration tier permit.

15 These LEA and board staff findings constitute
16 violations in all areas of concern with regard to the two
17 sections, 44004 and 44014(b) of the Public Resources
18 Code. Board concurrence with the proposed standardized
19 permit and its subsequent issuance by the LEA will
20 correct these violations.

21 Now, on the basis of the Board's determination
22 of the facility conformance with the intent of the County
23 Integrated Waste Management Plan, staff are prepared to
24 make recommendation on the proposed permit.

25 BOARD MEMBER JONES: Madam Chair.

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1 CHAIR MOULTON-PATTERSON: Yes, Mr. Jones.

2 BOARD MEMBER JONES: Madam Chair, I'm prepared
3 to move this, but I do want to just clarify one thing for

4 my own satisfaction. The NDFE, according to Statute
5 41732(b), says that a county will write an NDFE with the
6 information that is available to them at the time that
7 they write the NDFE. It's not the same argument that
8 we're having about the siting elements, and I think that
9 we've got to understand that they're two different
10 elements. They have two different requirements and this
11 one in statute says you put in the NDFE the information
12 that's available the day that you're writing that permit.

13 I'm finding it hard to understand why this is
14 not in compliance because it, in fact, was written to the
15 requirements of our statute, which says use the
16 information that's available the day that you write it.

17 So I just don't want us to get confused because
18 we keep bringing this issue up, and I don't think this is
19 a non-compliance issue, non-conformance issue.

20 MS. CARDOZA: Catherine Cardoza with the Office
21 of Local Assistance. Would you like me to address that
22 at all?

23 BOARD MEMBER JONES: Yeah.

24 MS. CARDOZA: Since the January '99 meeting,
25 we've been bringing forward any conformance finding

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1 issues with NDFEs as well as siting elements and we've
2 been going on the basis of any change between the two

3 documents is because of the word "expansion" that is in
4 50001. And so any time there is a difference, despite
5 the 41732, we've brought that forward and instead of
6 saying it's not in conformance we say it's inconsistent
7 and it's up for the Board to decide if it is, in fact, in
8 conformance or not.

9 And that issue about that available at the time,
10 we'll be including in the agenda item coming forward next
11 month on the conformance finding policy and why because
12 of that it would be difficult to use the description
13 ambiguity as a -- why it's difficult to come up with that
14 decision.

15 BOARD MEMBER JONES: 50001 was about disposal
16 facilities; right?

17 MS. CARDOZA: Actually, 50001(a)(1) addresses
18 disposal facilities and (a)(2) specifically addresses
19 NDFEs and amendments thereto, and that's why we've been
20 bringing forward both documents.

21 BOARD MEMBER ROBERTI: Madam Chair.

22 CHAIR MOULTON-PATTERSON: Yes. Senator Roberti.

23 BOARD MEMBER ROBERTI: Yes. Thank you.

24 I agree with Member Jones's statement that the
25 siting element and the Non-Disposal Facility Element are

1 different things with different requirements.

2 Nevertheless, the issue is roughly still the same and
3 that is that the permit we're being asked to vote on
4 today and at other times, more often than not, is not in
5 conformance with the siting elements or the Non-Disposal
6 Facility Element. I guess that's what NDFE stands for.
7 I hate the acronym, but in this case I hate what it
8 stands for, both incomprehensible.

9 Nevertheless, next month I understand we are
10 going to be dealing with this in some degree, so I'm
11 going to cooperate here and vote for the agenda item with
12 the confidence that staff has indicated that we're going
13 to be addressing both questions, although as Member Jones
14 says, they are different, both questions, because we are
15 consistently voting on situations where either the NDFE
16 or siting element are not the same as the permit, and
17 then the question arises what in the world is the reason
18 for all this, why are they digressing, and I think it
19 does throw a monkey wrench into our confidence and own
20 procedures.

21 So with that in mind I intend to vote for it. I
22 recognize Mr. Jones's important point that they are
23 different, but the matter of conformance is very
24 important and that question is roughly still the same.

25 CHAIR MOULTON-PATTERSON: Thank you, Senator

1 Roberti.

2 BOARD MEMBER JONES: Madam Chair.

3 CHAIR MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: I'll move adoption of
5 Resolution 2000-301, consideration of a new standardized
6 permit for the El Corazon Composting Facility in San
7 Diego County.

8 BOARD MEMBER ROBERTI: Second.

9 CHAIR MOULTON-PATTERSON: Mr. Jones moves,
10 Senator Roberti seconds approval of Resolution 2000-301
11 for a standardized permit for El Corazon Composting
12 Facility, San Diego County.

13 Please call the roll.

14 BOARD SECRETARY: Eaton.

15 BOARD MEMBER EATON: Aye.

16 BOARD SECRETARY: Jones.

17 BOARD MEMBER JONES: Aye.

18 BOARD SECRETARY: Medina.

19 BOARD MEMBER MEDINA: Aye.

20 BOARD SECRETARY: Paparian.

21 BOARD MEMBER PAPARIAN: Aye.

22 BOARD SECRETARY: Roberti.

23 BOARD MEMBER ROBERTI: Aye.

24 BOARD SECRETARY: Moulton-Patterson.

25 CHAIR MOULTON-PATTERSON: Aye.

1 Item Number 2.

2 MS. NAUMAN: Thank you, Madam Chair.

3 Item 2 is consideration of a revised Solid Waste
4 Facility Permit for the Loyalton Landfill in Sierra
5 County, and Erica Weber will be making the presentation.

6 CHAIR MOULTON-PATTERSON: Thank you.

7 MS. WEBER: Good morning, Madam Chair and
8 Members of the Board.

9 Also here today for this item is Ernie Genton,
10 and he'll be here to answer any questions you may have.
11 He's from the Local Enforcement Agency of Lassen County.

12 Loyalton is a Class III sanitary landfill owned
13 and operated by the County of Sierra. The landfill was
14 established in 1977. Operated by the County, it was
15 issued a Solid Waste Facility Permit by the Board in
16 1978.

17 A waste disposal area was not specified in the
18 1978 Solid Waste Facility Permit. The proposed permit
19 would establish a waste disposal area of 21 acres which
20 is consistent with the current report of disposal site
21 information which was submitted in support of the permit
22 application and proposed permit.

23 It is the goal of our branch to update all the
24 old 1978 or "disco" permits to reflect current operating
25 conditions. The proposed permit would allow for the

1 following changes: Limit the waste disposal area to 21
2 acres, increase estimated site life from 1998 to 2043,
3 increase tonnage of 5 tons per day to 8 tons per calendar
4 day, hours of operation will increase 8:00 a.m. to 5:00
5 p.m. Wednesday through Sunday to 6:00 a.m. to 6:00 p.m.
6 seven days per week, and increase site capacity from
7 240,000 cubic yards to 744,000 cubic yards.

8 As we have presented in the table on page 2-3 of
9 the agenda item at the time this went to print, board
10 staff had identified three issues as to be determined.

11 Number one, Board's Office of Local Assistance
12 staff conducted a review of the submitted documents and
13 determined that the application package is not consistent
14 with the site capacity in the county siting element.
15 Ernie Genton will provide more information regarding
16 conformance after this presentation.

17 Number two, board staff has not completed their
18 review of the submitted CEQA documentation and agrees
19 with the LEA's interpretation of exemption.

20 Number three, the closure post-closure staff has
21 completed their review of the submitted plan and has
22 received the needed amendments deeming the plan in
23 compliance.

24 Because the conformance findings have not been
25 made, staff has no recommendation.

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1 I would also like to bring to your attention a
2 correction of the resolution. Under the third "whereas"
3 it should read increase the hours of operation, not
4 decrease. An amended copy of the resolution will be
5 provided to the appropriate staff for your approval.

6 Present to elaborate on the increased site
7 capacity and to respond to questions about the permit or
8 facility is Ernie Genter of the Lassen County Local
9 Enforcement Agency.

10 CHAIR MOULTON-PATTERSON: Thank you very much.

11 Questions? Mr. Paparian.

12 BOARD MEMBER PAPARIAN: I had a question but is
13 there more presentation?

14 CHAIR MOULTON-PATTERSON: I'm sorry. Were you
15 going to -- I'm sorry. Go ahead.

16 MR. GENTER: I guess I have some information
17 that can clarify the consistency issue.

18 My name is Ernie Genter. I'm the LEA for Modoc,
19 Lassen and Sierra Counties.

20 There's two parts to the explanation for the
21 consistency in the figures in the siting element versus
22 the permit and other documents.

23 First, the table and figures used in the siting
24 element discuss only the remaining capacity for solid
25 waste of the facility and does not include the existing

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1 in-place solid waste and daily and intermediate soil
2 cover and does not include the future daily and
3 intermediate soil cover. So those are fairly significant
4 additions to the total volume capacity of 744,000.

5 The other is that the volumes are based on a
6 1992 site survey and final grading plan. That was the
7 first final grading plan for the facility, so it was the
8 first time we really had real numbers for the site
9 capacity, and those all indicated 744,000 cubic yards.
10 Since then, that has been converted to tonnage under
11 certain assumptions, including the in-place density of
12 the waste and the -- or waste-to-soil ratios, among other
13 things.

14 Since then, the tonnage figure used in all the
15 different documents ends up the same, 163,000 tons of
16 remaining capacity in 1992, but then some of the
17 documents like the siting element took that same number
18 and reconverted it back to volume using some different
19 assumptions, particularly the in-place waste conversion
20 factors, and that was primarily it.

21 And when you make the -- use the same conversion
22 factor of 750 pounds per cubic yard of waste instead of
23 the thousand using the siting element, the number comes
24 back at approximately 744,000, actually 745,000 cubic

25 yards of capacity.

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1 CHAIR MOULTON-PATTERSON: Thank you very much,
2 Mr. Genter.

3 MR. DE BIE: Madam Chair, just your indulgence
4 a minute. Mark DeBie with the Permitting and Inspection
5 Branch.

6 To add to the record on the CEQA issue, it's
7 staff's determination that all of the quote, unquote,
8 changes that are in this old permit have been reviewed in
9 previous documentation, existing CEQA documentation, and
10 it's just the change from 5 tons per day to 8 tons per
11 day that staff is recommending that an exemption to CEQA
12 is appropriate.

13 CHAIR MOULTON-PATTERSON: Thank you, Mr. DeBie.
14 Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Couple questions.

16 At one time up until late last year, I believe,
17 this facility was having some compliance problems
18 involving litter. Is this the right -- I'm on the right
19 facility here; right?

20 MR. GENTER: Yes.

21 BOARD MEMBER PAPARIAN: The -- will the -- they
22 brought it into compliance. Will the increase in volume
23 here affect their ability to continue to be in compliance

24 in any way?

25 MR. GENTER: I don't believe so. They've pretty

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1 much been receiving that amount of waste all along and
2 the problem with litter had been manpower and they've
3 increased their staffing at the site and improved their
4 fencing and stayed on top of it. I don't see it as a
5 problem.

6 BOARD MEMBER PAPARIAN: Back on the CEQA issue
7 for a second. You said -- your last comment was that the
8 5 to 8 is the issue really. Will you elaborate on that a
9 little bit?

10 MR. DE BIE: When you go back and look at the
11 original CEQA documentation, and actually this is a
12 facility that had an EIR done on it, probably one of the
13 first ones in the mid-70s, as well as documentation
14 developed for the siting element and the CEQA record
15 associated with WDRs and that sort of previous approvals,
16 we find that the site capacity, the acreage figure that's
17 mentioned that is a quote, unquote, change in this
18 permit, were all addressed and described. But what was
19 not described was the tonnage going from 5 to 8 tons.

20 BOARD MEMBER PAPARIAN: What if any impacts will
21 that have? What are the environmental impacts that
22 were -- that are associated with that?

23 MR. DE BIE: Based on past experience with
24 similar facilities and location, as well as information
25 provided from the LEA, as well as an indication that at

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1 times this facility has operated at this level and has
2 shown that it's able to comply with state minimum
3 standards and there's no information in the record that
4 indicates that there are any impacts associated with 8
5 tons per day, staff is very confident that there will not
6 be any potential impacts that need to be mitigated from
7 this increase in tonnage.

8 CHAIR MOULTON-PATTERSON: Thank you. Any other
9 questions?

10 Senator Roberti.

11 BOARD MEMBER ROBERTI: I have a question just
12 for my information. My notes and I think the documents
13 that were provided us tell us that the divergence between
14 the siting element and the permit is not as great as it
15 seems because the siting element includes cover material.

16 MR. GENTER: The siting element just includes
17 remaining capacity for solid waste. The two tables, 3-1A
18 and 3-1B, are just capacity remaining for solid waste as
19 of 1992.

20 BOARD MEMBER ROBERTI: Then explain to me why do
21 my notes, which are the result of I think previous

22 briefings, indicate that although the 744,000 yards
23 on-site is not that different from 334,000 requested.

24 MR. DE BIE: Mr. Genter reviewed the numbers for
25 you, but let me take a shot at it.

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1 As Mr. Genter indicated that the siting element
2 only described remaining capacity of solid waste only, it
3 left out any description of solid waste already in place
4 at the time that the siting element number was developed
5 and also left out of the calculation the use of daily
6 cover. At a facility that receives 5 to 8 tons per day,
7 there's a significant ratio of cover to solid waste, two
8 to one.

9 BOARD MEMBER ROBERTI: The permit is including
10 daily cover?

11 MR. DE BIE: So the permit is including
12 everything, total capacity.

13 BOARD MEMBER ROBERTI: Okay. Then my question
14 is do all our permits include daily cover since our regs
15 seem to indicate that daily cover isn't part of municipal
16 solid waste?

17 MR. DE BIE: Gosh, I don't want to give you an
18 over-arching answer to say that every single permit does
19 it one way or the other.

20 BOARD MEMBER ROBERTI: What's the usual?

21 MR. DE BIE: The usual is that the capacity
22 value in the permit is a description of air space, and
23 that would include waste and cover. There are some sites
24 that use ADC, and cover is nominal in that situation in
25 terms of taking up air space, but I would have to say

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1 that the majority of the permits are describing total air
2 space or total capacity, which would include waste and
3 cover.

4 BOARD MEMBER ROBERTI: Okay. I think somewhere
5 down the line -- thank you. That explains it to me, but
6 somewhere down the line isn't this going to confuse our
7 numbers when we're talking about diversion rates and
8 total waste generated? For some circumstances we include
9 alternative daily cover as part of disposal. It appears
10 we're doing it here, even though we're calling it air
11 space, and then in other circumstances it's not part of
12 disposal.

13 I'm just thinking that maybe this is one of the
14 things why our numbers sometimes get askewed and become
15 very, very difficult to understand, explained simply
16 because in the case of alternative daily cover here we're
17 actually counting it as -- we're in effect counting it as
18 municipal solid waste. We may say it's air space, but
19 that appears what we're doing.

20 MR. DE BIE: Well, just to clarify. In the case
21 of --

22 BOARD MEMBER ROBERTI: I could be totally wrong,
23 but that's how it appears to me.

24 MR. DE BIE: Just to clarify, in the case of
25 Loyalton they're using soil as cover and not ADC. I was

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1 just using an example of how the numbers could shift if
2 ADC is used.

3 You know, I can't speak to what the description
4 requirements are in the siting element in terms of
5 whether the requirement was just describing capacity of
6 waste or total capacity. Maybe Catherine can help with
7 that one if it got down to that level of detail, but if
8 there is some discrepancies in how those numbers are
9 generated between the siting elements and permits, then
10 that, yes, it could be leading to some of the
11 discrepancies that we're finding and hopefully we can
12 look at that in the agenda item next month.

13 In terms of diversion and disposal, that's
14 counted as the material comes in, not necessarily what
15 ends up in the hole. So if material is being diverted as
16 it comes in to use as ADC, then it's not counted as
17 disposal but it does take up air space just as clean soil
18 would take up air space.

19 BOARD MEMBER ROBERTI: Thank you, Madam Chair.
20 I think Mr. DeBie has pretty much answered my question.
21 I would hope next month, as he suggested, we
22 take up the issue of alternative daily cover and how it's
23 counted for various purposes. In this case in the permit
24 and the siting element and then in cases for diversion
25 numbers it appears to come into different categories at

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1 different times. I'm satisfied it's not a Loyalton
2 question, however, since they use soil. So with that, I
3 won't say anything more.

4 CHAIR MOULTON-PATTERSON: Okay. Thank you,
5 Senator, for bringing that up.

6 Do we have a motion on Number 2 or is there any
7 other questions, any further questions?

8 BOARD MEMBER JONES: Madam Chair.

9 CHAIR MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: I'll move adoption of
11 Resolution 2000-303 with the change in the third
12 "whereas" from decrease to increase.

13 BOARD MEMBER MEDINA: Second.

14 CHAIR MOULTON-PATTERSON: Okay. We have
15 Mr. Jones moving, Mr. Medina seconding approval of
16 Resolution 2000-303 for a revised Solid Waste Facility
17 Permit for the Loyalton Landfill, Sierra County, with the

18 change.

19 Secretary, would you call the roll please.

20 BOARD SECRETARY: Eaton.

21 BOARD MEMBER EATON: Aye.

22 BOARD SECRETARY: Jones.

23 BOARD MEMBER JONES: Aye.

24 BOARD SECRETARY: Medina.

25 BOARD MEMBER MEDINA: Aye.

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1 BOARD SECRETARY: Paparian.

2 BOARD MEMBER PAPARIAN: Aye.

3 BOARD SECRETARY: Roberti.

4 BOARD MEMBER ROBERTI: Aye.

5 BOARD SECRETARY: Chair Moulton-Patterson.

6 CHAIR MOULTON-PATTERSON: Aye.

7 Thank you very much for your presentation.

8 Item 3, Ms. Nauman.

9 MS. NAUMAN: Item Number 3 is consideration of a
10 revised Solid Waste Permit for the Oasis Sanitary
11 Landfill in Riverside County.

12 Dave Otsubo will be making the presentation, but
13 before he begins, I would like to point out for the Board
14 this is Dave's last permit. He's moving from the
15 Permitting and Inspection Branch of the P&E Division over
16 to our Facility Operations Branch where he will be

17 working in our EA program.

18 CHAIR MOULTON-PATTERSON: Thank you.

19 MR. OTSUBO: I could bring forth a permit from
20 that branch. You probably will be seeing more of me.

21 Anyway, good morning, Madam Chair and Board
22 Members.

23 CHAIR MOULTON-PATTERSON: Good morning.

24 MR. OTSUBO: Item 3 in Permits regards
25 consideration of concurrence in a revised Solid Waste

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1 Facility Permit for the Oasis Sanitary Landfill located
2 in Riverside County near the Salton Sea.

3 It's currently operating under a permit issued
4 in 1993 which has allowed the site to accept 82 tons per
5 day and operate up to six days per week. In 1997,
6 operations were reduced to three days per week, and since
7 1998, the site has only been operated two days per year.

8 Under the proposed permit before you, the
9 facility would be -- the proposed permit before you would
10 address the current days of operation. It would modify
11 the total site acreage from 154 to 166.6 acres based on
12 more accurate measurements of actual site acreage. It
13 would change the disposal site footprint to 23.3 acres
14 from 32 acres as the operator does not plan to operate
15 outside the current disturbed area. It would increase

16 the new estimated closure date to 2186.

17 At the time the item went to print, the Board's
18 Office of Local Assistance was not able to make a finding
19 of conformance. And since that time we've received
20 additional information and the Office of Local Assistance
21 has indicated that despite the differences with the
22 Countywide Siting Element compared to the proposed
23 permit, the proposed change is not a facility expansion
24 but a decrease in the annual tonnage amounts received
25 and, therefore, OLA staff find this proposed permit is in

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1 conformance since annual tonnage received will be less
2 actual -- the actual received annual tonnage will be less
3 than what is described in the County's Countywide Siting
4 Element.

5 In addition, facilities -- Financial Assurances
6 staff have determined that the funding for the closure
7 post-closure maintenance and operating liability
8 documentation are in order. The Environmental Review
9 Section staff have reviewed and commented on the
10 mitigated negative declaration prepared by the Waste
11 Management District -- Department and believe that the
12 lead agency has made the required CEQA findings and
13 responded to staff's comments.

14 Therefore, Environmental Review staff have

15 determined that the CEQA documentation is adequate for
16 Board consideration for those project activities which
17 are within this agency's jurisdiction.

18 In April, Permitting and Inspection Branch staff
19 conducted a joint inspection of the site with the LEA and
20 noted no violations of state minimum standards.

21 Therefore, all the required findings are now in
22 place and staff recommend that the Board adopt Resolution
23 2000-304, concurring in issuance of revised Solid Waste
24 Facility Permit 33-AA-015.

25 A representative of the operator, Leslie Likens,

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1 is in the audience and Lori Hoque of the LEA sits before
2 you.

3 This concludes staff's presentation.

4 CHAIR MOULTON-PATTERSON: Thank you very much.

5 Questions? Senator Roberti.

6 BOARD MEMBER ROBERTI: Just to understand this,
7 the only change requested for the landfill is to increase
8 tonnage per day from 82 to 400.

9 MR. OTSUBO: That is correct, but they're
10 also --

11 BOARD MEMBER ROBERTI: But also they're reducing
12 the number of days?

13 MR. OTSUBO: Right.

14 BOARD MEMBER ROBERTI: So are we taking in more
15 tonnage or less tonnage, say, over a week or are we
16 authorizing. That's a better word, authorizing.

17 MR. OTSUBO: On an annual basis it would be much
18 less tonnage.

19 BOARD MEMBER ROBERTI: And we're not expanding
20 on the closure date.

21 MR. OTSUBO: The closure date does increase to
22 2186.

23 BOARD MEMBER ROBERTI: That gets me to another
24 question, then. I thought we had discussed at one point
25 these ridiculously extensive closure dates. This is a

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1 good example. This is a permit that I would like to vote
2 for because they're reducing the tonnage and everybody is
3 happy, but we have a 2186 closure date. Now, I don't
4 know what happened the last time this came up. What year
5 is the current permit?

6 MS. LIKENS: 2012.

7 BOARD MEMBER ROBERTI: 2012. So we're asking
8 for 174 more years. Now, counsel has advised that we
9 cannot take time into consideration; am I correct?

10 MS. TOBIAS: I think the last time we talked
11 about this, I think we explained -- and staff can
12 certainly probably do a better job on explaining how

13 capacity is calculated and how these closure dates are
14 calculated in terms of estimates of when you might reach
15 capacity of the landfill.

16 I don't think there's anything in the law that
17 really addresses the fact that a closure date that's a
18 hundred years out is probably not a basis for denying a
19 permit. It certainly I think raises a common sense
20 question about whether that makes sense, but there's not
21 really a legal issue on it. I don't know if staff wants
22 to add to that on the closure date.

23 CHAIR MOULTON-PATTERSON: Mr. DeBie.

24 MR. DE BIE: Thank you. Mark DeBie with
25 Permitting and Inspection.

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1 Basically, the closure date is developed by
2 looking at remaining capacity, the volume of waste coming
3 in and the rate at which the waste is coming in and do
4 the mathematics and come up with a closure date.

5 I just wanted to highlight -- if part of the
6 concern is that we're sort of doing permits with these
7 extended dates out there, to just point out that there is
8 a requirement that these permits be reviewed by the LEA
9 every five years at the most. They can do it more
10 frequently and at that time they would assess whether or
11 not the closure date still makes sense or not and can

12 make certain decisions on what should or should not be
13 done with this permit. So it's not sort of a permit
14 that's out there for a hundred-plus years.

15 BOARD MEMBER ROBERTI: I understand that. I
16 understand that. Nevertheless, I think I indicated in
17 the past and I'm going to just emphasize that I'm
18 reluctant to vote for something with these ridiculously
19 long closure dates, even though we have controls which I
20 recognize within the mechanism that every five years they
21 have to come up for a review, but I just don't think the
22 permits should be so written.

23 CHAIR MOULTON-PATTERSON: Did you wish to
24 address that, Mr. DeBie?

25 MR. DE BIE: Just --

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1 BOARD MEMBER ROBERTI: Please explain.

2 MR. DE BIE: Well, I don't know if I'm getting
3 at your concern other than these -- this huge amount of
4 time being put in the permit, but part of the reason why
5 I think the permit needs to indicate an estimated closure
6 date or site life is because that is utilized along with
7 the volume and rate and that sort of thing to calculate
8 what the financial assurance requirements are for the
9 site so that the operator can make sure that they have
10 adequate funding that's consistent with the site in terms

11 of where it is in its life.

12 BOARD MEMBER ROBERTI: I do understand that, and
13 there must be a period of time which is reasonable and
14 yet extensive enough. And not being the financial
15 expert/engineer, I mean my own -- I would suspect 50
16 years would be more than satisfactory for any piece of
17 real property in California that's being used for a
18 landfill. Maybe somebody can explain to me otherwise.

19 I mean I want to learn on this, but I just can't
20 in the case of some of these ridiculously long closure
21 dates, even with the five-year guarantees, which I
22 understand where they would have to review and if there's
23 a problem we would have to review, but -- I mean I hate
24 voting no on a permit, but an aspect of this is an extra
25 112 years. And we've discussed this in the past and it

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1 doesn't appear that we've made any significance change in
2 direction.

3 CHAIR MOULTON-PATTERSON: Thank you.

4 Mr. Jones and then Mr. Paparian.

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, I think the
7 last time we had this discussion was that a Marine Corps
8 base that took in about seven tons a day, and it was -- I
9 think with the redesign it took it out 60, 80, 100, maybe

10 300 years.

11 I think that one of the issues here is that this
12 landfill, total, can take in 800 tons a year, which if
13 you divide that by 365 days comes to about two and a half
14 tons, two and a quarter tons a day.

15 I think that that's important to understand
16 because it's leaving the County's options open for future
17 issues. Right now they don't feel they need it. It's
18 theirs. They've put the money into the construction of
19 the facility. It's an approved permit. I think it's
20 been around since the '70s, and it is just strictly --
21 this gives the local jurisdiction, the local county to
22 take in a 25-, 30-year-old landfill that used to take in
23 more tonnage and was going to be the -- take it from a
24 certain waste shed, that that waste shed is being
25 directed somewhere else, probably to a more

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1 environmentally sound landfill, but they're keeping their
2 options open.

3 And I beg -- when we had this discussion on this
4 Marine Corps base, I think one of the things this Board
5 has to be cognizant about is that natural disasters take
6 away capacity. Where the Marysville -- or when the
7 Lindon floods happened up in Yuba and Sutter County where
8 we had, as the operators up there, over 300 people on the

9 ground loading trucks from all over the state, we took
10 five years of capacity out of our landfill in two
11 weekends. If we only had six years of capacity on that
12 site, we would have been in deep trouble.

13 So while this is a function of them redirecting
14 waste to a more environmentally sound landfill or
15 something that makes more sense to them, it still gives
16 them the opportunity to take care of changes. It also
17 gives them the opportunity in five, 10, 15, 20, 25 years
18 to come back and revise this permit to in fact take in
19 whatever the EIR will allow. If the EIR in the landfill
20 says they can take it 20,000 tons a day, then they can do
21 that, and then that capacity goes down to seven years,
22 six years, five years.

23 So it's all a function of what does the local
24 jurisdiction need to do to number one, keep its options
25 open, and then allow -- be allowed to change as

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1 wastestreams and the waste sheds change and conditions
2 change. I wouldn't get nervous personally about 186
3 years.

4 And the Senator and I had this discussion.
5 Prior -- a long time ago in the garbage business. I
6 won't say now. I will say a long time ago -- nobody in
7 our industry ever looked a week out, a year out, five

8 years out. We looked 50 years and a hundred years out
9 because there's an obligation to take care of the
10 public's health and safety. And as people continued to
11 object to having facilities sited in their neighborhoods,
12 we had better hope that there are facilities like this
13 and other big facilities so that the waste does have
14 somewhere to go at some time.

15 God knows what this landscape is going to look
16 like in 25 years. It won't be the same as it is today.
17 So I think that just gives the county its options and
18 leaves them open.

19 BOARD MEMBER ROBERTI: Madam Chair.

20 CHAIR MOULTON-PATTERSON: Mr. -- Senator
21 Roberti. Did you want to comment, Mr. Paparian, next?

22 BOARD MEMBER PAPARIAN: One of the -- a couple
23 things. You mentioned that the calculations of
24 financial -- for financial assurance purposes, the
25 calculations changed based on the expected life of the

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1 facility. Let me just ask the question that I'm getting
2 to so you can get this. If this facility were to close
3 in 2012 instead of 2186, would they not be -- would there
4 be a financial problem, financial issue? In other words,
5 with the longer lifetime are they, I hate to say, getting
6 around some of the financial assurance issues, but are

7 they -- you see what I'm getting at?

8 MR. DE BIE: I'm going to defer to our financial
9 assurance people on that, but just a comment in that
10 depending on the mechanism it does factor in in terms of
11 how quickly they're approaching the capacity and,
12 therefore, the site life of the facility. Some of these
13 mechanisms are dependent on the rate of waste coming into
14 the site to contribute to the fund.

15 Maybe Garth Adams can help us a little bit more
16 on the detail.

17 MR. ADAMS: Garth Adams, Financial Assurances.

18 To go on what Mark just said, basically financial
19 assurances at these kinds of facilities like the one
20 we're talking about is based on as fast as you fill the
21 hole is how fast you fill the account. So as you put
22 more life out there on the site, they have that much more
23 time because they're filling at a lower rate of capacity,
24 as well as their account. So it's a direct function of
25 how fast they fill it, which is the capacity that we're

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1 talking about. Whether it's two days or a year, they're
2 going to have over a hundred years to fill their account
3 a little slower.

4 BOARD MEMBER PAPARIAN: When I first looked at

5 this, it -- on the surface it looked to me like an
6 attempt to avoid closure requirements and financial
7 obligations associated with closure when you go to two
8 days a year.

9 MR. ADAMS: I think most of the facilities are,
10 like Mr. Jones had indicated, are looking for that
11 reserve capacity. As we have experienced, are looking
12 for reserve capacity in case something happens to their
13 primary landfills in trying to preserve that for future
14 use because of the problems that are out there with
15 siting new facilities. A common word would be called
16 trickling waste into these facilities. I don't know how
17 fast the intent of this one other than to preserve the
18 capacity as opposed to when they don't have the financial
19 assurances. They are adequately funded at this time for
20 that facility. They're just going to give themselves
21 more time to fund basically at a slower rate.

22 BOARD MEMBER PAPARIAN: And then the facility
23 itself, as I understand, is unlined, that old style?

24 MR. OTSUBO: That's correct.

25 CHAIR MOULTON-PATTERSON: Senator Roberti.

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1 BOARD MEMBER ROBERTI: Yes, Madam Chair.

2 Back to the question of the time duration.

3 Along the lines of what Mr. Jones had indicated, I do

4 recognize that the more diversion that we engage in, the
5 more -- the longer the landfill is going to last, so
6 that's the good news. But the bad news on these hundred
7 and some-odd years is that conditions just change on us,
8 geology changes, the science changes. The configuration
9 of the earth could change, especially in California. And
10 I just think at some point we have to just recognize that
11 anything over a certain period of time just absolutely
12 makes no sense and we should not be voting those
13 extensive periods of time for landfills, even though --
14 even if we're going to have a review. So this issue did
15 come up a few months ago, I think, more than a few months
16 ago.

17 For my own, unless somebody can show me
18 otherwise, I'm not going to vote for any permit that has
19 more than 50 years new life tacked onto it. That's my
20 own arbitrary number of years. Now somebody can tell me
21 I'm wrong and maybe it's 75 years or a hundred years, but
22 right now I'm at 50. I certainly don't think something
23 approaching 200 years is anything we should be voting on
24 or for, and I hope staff starts redirecting and the
25 relevant LEAs start redirecting because I think this is a

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1 serious question in a state as topographically unsound as
2 California is.

3 CHAIR MOULTON-PATTERSON: Ms. Nauman wished to
4 respond.

5 MS. NAUMAN: Senator Roberti, staff is cognizant
6 of your concern about this. Let me just make an offer of
7 comment.

8 As you know, we're in the beginning stages of
9 the two-year study on landfills and I would expect within
10 that scope our contractors are going to be looking at the
11 performance of landfills and they're going to be looking
12 at geographic and topographical and geological
13 differences in the performance of our landfills. Not to
14 guess or prejudge what their conclusions may be, but I
15 think it's certainly within the realm of their study to
16 come back with recommendations about these older
17 landfills and about how well they're performing given
18 changes in geology, et cetera, and may, in fact,
19 recommend to us that we consider moving these to closure
20 sooner rather than later. So there at least is an
21 opportunity for that type of examination to occur in the
22 context of that study.

23 BOARD MEMBER JONES: Madam Chair.

24 CHAIR MOULTON-PATTERSON: Yes. Mr. Jones.

25 BOARD MEMBER JONES: Or as part of that study

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1 they may find that they don't need to be closed. Let's

2 wait until the study comes out before we make that
3 determination. I would not-- I would caution -- you
4 know, staff listens to this Board pretty intently and it
5 wouldn't be my direction to ask them to tell people to
6 limit the site life because what you're basically doing
7 is asking them to -- you're asking local jurisdictions
8 and local operators to ignore the property that they've
9 bought and the local process that it has gone through for
10 us to affix an arbitrary number.

11 I don't mind having the discussion after we have
12 the permitting workshop on what the locals actually do
13 and after we see the landfill operator -- the landfill
14 study because that landfill study has got to do more than
15 just let us know who is violating litter laws. Part of
16 this study is to say are landfills operating effectively
17 based on the state minimum standards that are in place
18 today.

19 And if in fact we find people that are constant
20 violators and people that are absolutely living to the
21 letter of the law and never have a violation, although
22 they both have the same kind of environmental degrading
23 affects on the properties, then we don't have the right
24 standards. It's like a health inspector -- the health
25 inspectors found that they were going into restaurants

1 and the violations that were written the most were the
2 garbage cans weren't emptied and the floors hadn't been
3 swept, but what wasn't being written up was that they
4 were checking the temperature of the freezer boxes or the
5 grills that the food were getting cooked on, which I
6 think is a little more important for the public health
7 and safety than sweeping the floor and had the garbage
8 can been emptied three times that day.

9 So I think this study is going to give us the
10 opportunity to look at what standards are having an
11 impact on the environment and do we have to change those,
12 and then I think after that discussion then we can talk
13 about what's the right length of time because local
14 jurisdictions -- you know, when we talk about closure
15 post-closure, this is owned by Riverside County. They
16 could do a pledge of revenue. They could have a
17 resolution that says they're going to fund whatever
18 closure post-closure costs come along. I think this one
19 happens to fund in a trust fund is what I got from what
20 Garth was saying. I don't know if they're doing pledge
21 of revenue or a trust fund, but you know I think we just
22 need to see the information so that we can have the
23 discussion.

24 I think it's a good -- I think your concerns are
25 valid. I understand. It seems a little weird to approve

1 something that has 186 years of capacity, but --

2 BOARD MEMBER ROBERTI: We're not -- if we're
3 approving 186 years of capacity, that language doesn't
4 bother me. What bothers me is the permit.

5 BOARD MEMBER JONES: But the permit gets
6 reviewed every five years. So the permit, in fact, is a
7 five-year permit. It's the 186 years of capacity. So if
8 you want to redirect staff to use the right language, I
9 don't have a problem with that.

10 BOARD MEMBER ROBERTI: Maybe it's a language
11 question, but in our resolution it's says the life of the
12 landfill.

13 BOARD MEMBER JONES: Right, capacity.

14 BOARD MEMBER ROBERTI: Is a hundred and
15 whatever, 186, 200 years and I -- if we have a geologic
16 mishap and then this Board is asked to explain why it
17 approved a 186-year capacity, it is inexplicable in my
18 humble estimation, no matter how many legitimate reasons
19 we had.

20 So maybe it's a question -- maybe it's a
21 question of language, but the strong -- the more than an
22 inference, the clear reading of the language that we're
23 called upon to vote for is life of the landfill. Life of
24 the landfill. And maybe a hundred years. Maybe a
25 hundred years understanding government owns it, the

1 amount of financing that has to go into it, but anything
2 beyond the hundred years we're saying the capacity is a
3 hundred years. In the state of California, anywhere in
4 the state of California just about where you have
5 earthquake problems, flood problems, topographical
6 problems where one mile is different from the next mile
7 and we're constantly finding out new geological factors
8 every day. For example, Los Angeles we're now finding is
9 on -- Los Angeles, Orange, Riverside are on sort of a --
10 not on earthquake faults at all. It's more like
11 fractured glass. It's everywhere. And we've just found
12 this out since I think the Whittier Narrows earthquake.
13 So to be talking about 186 years we're talking
14 about geographical permanence that just doesn't exist.
15 So for myself I'm not voting for any permit more than 50
16 years. I might go a hundred years if staff can explain
17 that to me, but anything more than that just doesn't --
18 it just makes absolutely no sense.

19 CHAIR MOULTON-PATTERSON: Thank you, Senator.
20 Mr. Eaton.

21 BOARD MEMBER EATON: Thank you.

22 I guess this is a classic conflict between
23 common sense and dollars and cents, and basically the
24 real issue is common sense belies the fact that if you're
25 going to reduce your days of operation from seven to two,

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1 the average citizen says why are you increasing the
2 tonnage. We figured out the calculation. Mr. Jones did
3 that very well. And yet at the same time you're
4 extending it how many years? Like a hundred and some-odd
5 years.

6 So the real question I have is how are we as an
7 organization going to respond to this issue under the
8 Wildman audit as it relates to is this an expansion or is
9 this a reduction. And I think that's one of the
10 questions we have to ask ourselves really when we look at
11 these issues. This may not be appropriate for purposes
12 of the permit because I understand why the County is
13 wanting to do that, but it is an issue that I think
14 either next month or the month that we have this is how
15 we're going to deal with this. How would we classify
16 this when they come in and audit our books on this
17 permit?

18 CHAIR MOULTON-PATTERSON: Mr. Chandler.

19 MR. CHANDLER: I see you looking at me, Madam
20 Chair.

21 CHAIR MOULTON-PATTERSON: I thought you wanted
22 to speak.

23 MR. CHANDLER: No. I think it's a rhetorical
24 question and I think it's a good one and one we ought to

25 be thinking about. I'm not prepared to address

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1 Mr. Eaton's comments.

2 BOARD MEMBER EATON: I'm saying as we go through
3 these I'm looking for opportunities wherein we can
4 increase and help situations where we can explain to
5 individuals who may not explain as we understand the fact
6 as you multiply it out you're actually reducing the
7 number of tons that you're getting in, but it's hard to
8 explain in an atmosphere where common sense seems to
9 prevail over dollars and cents.

10 CHAIR MOULTON-PATTERSON: Thank you, Mr. Eaton.

11 Mr. Paparian, did you have a comment or
12 question?

13 BOARD MEMBER PAPARIAN: It's been taken care of.
14 Thank you.

15 CHAIR MOULTON-PATTERSON: Thank you.

16 MR. OTSUBO: Madam Chair, I believe a
17 representative of the operator would like to say
18 something.

19 CHAIR MOULTON-PATTERSON: Yes, please. Thank
20 you.

21 MS. LIKENS: Good morning, Madam Chair and
22 Members of the Board. My name is Leslie Likens and I
23 represent the Riverside County Waste Management

24 Department.

25 This is an issue that we often confront, this

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1 estimated site life. It is truly a function of the
2 amount of waste that comes into it. It is a calculation.
3 The number of years that is on this permit is not a
4 request of the department. It is strictly a mathematical
5 calculation based on the estimated amount of tonnage that
6 will come into that landfill. If you wanted to put on
7 the permit just the remaining capacity, that would be
8 fine with us.

9 CHAIR MOULTON-PATTERSON: Thank you very much.

10 MS. LIKENS: But I would just ask that if you
11 are thinking of denying that, we would like it continued.

12 BOARD MEMBER ROBERTI: To the representative of
13 Riverside.

14 CHAIR MOULTON-PATTERSON: Ms. Likens.

15 BOARD MEMBER ROBERTI: Ms. Likens, you're
16 unfortunately caught up in an issue that is broader, as
17 you know, than your own permit. How many years if we did
18 capacity rather than --

19 MS. LIKENS: There wouldn't be, I'm saying --

20 CHAIR MOULTON-PATTERSON: So you're just saying
21 that --

22 MS. LIKENS: I'm just saying that we recognize

23 there is this much capacity left. If you base the
24 proposed tonnage -- if you take that proposed tonnage, it
25 works out mathematically to this number of years. It's

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1 not that we requested 186 more years of capacity. We
2 just -- site life, we just want to preserve that
3 capacity.

4 Member Jones was exactly correct. We -- this
5 request in reduction of days is at the request of our
6 Board of Supervisors. It came about as a result of
7 Proposition 218. We had to take a look at all our
8 smaller fills, those that are not lined, but we want to
9 preserve that capacity. We have what we term as a
10 geographical disfunction out in our Coachella Valley,
11 and without -- and Eagle Mountain not yet opened, we are
12 looking at a shortfall of capacity in that area. So we
13 do want to preserve our capacity at these landfills.

14 Ultimately it is our intent to close all smaller
15 landfills and regionalize, have bigger ones.

16 CHAIR MOULTON-PATTERSON: Thank you, Ms. Likens.

17 BOARD MEMBER JONES: Madam Chair.

18 CHAIR MOULTON-PATTERSON: Mr. Jones.

19 BOARD MEMBER JONES: I want to move adoption of
20 Resolution 2000-304, the consideration of a revised Solid

21 Waste Facility Permit for the Oasis Sanitary Landfill.

22 BOARD MEMBER MEDINA: I would like to second the
23 motion.

24 CHAIR MOULTON-PATTERSON: The motion by
25 Mr. Jones, seconded by Mr. Medina, for approval of

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1 Resolution 2000-304 for a revised Solid Waste Facility
2 Permit for the Oasis Sanitary Landfill, Riverside County.

3 Secretary, would you please call the roll.

4 BOARD SECRETARY: Eaton.

5 BOARD MEMBER EATON: Aye.

6 BOARD SECRETARY: Jones.

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY: Medina.

9 BOARD MEMBER MEDINA: Aye.

10 BOARD SECRETARY: Paparian.

11 BOARD MEMBER PAPARIAN: Abstain.

12 BOARD SECRETARY: Roberti.

13 BOARD MEMBER ROBERTI: Abstain.

14 BOARD SECRETARY: Moulton-Patterson.

15 CHAIR MOULTON-PATTERSON: Aye.

16 At this time we will take a break until 11:15.

17 (Recess taken)

18 CHAIR MOULTON-PATTERSON: I'd like to call the
19 meeting back to order.

20 We're on Item Number 4.

21 MS. NAUMAN: Item Number 4 is consideration of a
22 revised Solid Waste Facility Permit for the Central
23 Disposal Site in Sonoma County, and the presentation will
24 be made by Beatrice Poroli.

25 MS. POROLI: Good morning.

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1 The Central Disposal Site is owned and operated
2 by the County of Sonoma Department of Public Works. I
3 will highlight some of the major changes the proposed
4 permit will allow.

5 The proposed permit will allow the increase in
6 the permitted boundary to 398.5 acres, increase the
7 disposal footprint to 172 acres, change the hours of
8 operation at a covered public tipping facility. The peak
9 loading and waste type will not change.

10 In regards to this permit, staff sent
11 notifications to two special interest groups in the area
12 and they were the groups Neighbors Against Landfill
13 Expansion and Northern California River Watch.

14 The LEA and Board staff have determined the
15 following: The proposed permit is in conformance with
16 the Countywide Siting Element, the California
17 Environmental Quality Act has been complied with, the
18 operations of the landfill are consistent with the state

19 minimum standards.

20 Staff reviewed the proposed permit and
21 supporting documentation and have found them to be
22 acceptable for consideration by the Board.

23 In conclusion staff recommend that the Board
24 adopt Solid Waste Facility Permit Decision Number
25 2000-300 concurring in the issuance of Solid Waste

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1 Facility Permit 49-AA-001.

2 Mr. Bob Swift representing the LEA and Ms. Susan
3 Klaussen representing the operator are present to answer
4 any questions you may have.

5 This concludes staff's presentation.

6 CHAIR MOULTON-PATTERSON: Thank you very much.

7 If I might interrupt, my second or third mistake
8 today, I need to call for any ex parte disclosures at
9 this time. So if I might just beg your indulgence, I'd
10 like to do that now before we go further with the item.

11 Mr. Eaton.

12 BOARD MEMBER EATON: None. Thank you.

13 CHAIR MOULTON-PATTERSON: Mr. Jones.

14 BOARD MEMBER JONES: Denise Delmatier.

15 CHAIR MOULTON-PATTERSON: Thank you.

16 Mr. Medina.

17 BOARD MEMBER MEDINA: Denise Delmatier.

Please note: These transcripts are not individually reviewed and approved for accuracy.

18 CHAIR MOULTON-PATTERSON: Mr. Paparian.
19 BOARD MEMBER PAPARIAN: Eugene Tseng.
20 CHAIR MOULTON-PATTERSON: Senator Roberti.
21 BOARD MEMBER ROBERTI: None.
22 CHAIR MOULTON-PATTERSON: And I have none. I'm
23 very sorry. Thank you very much.
24 Had you finished your presentation?
25 MS. POROLI: Yes, I did.

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1 CHAIR MOULTON-PATTERSON: Any questions?
2 BOARD MEMBER JONES: Madam Chair.
3 CHAIR MOULTON-PATTERSON: Mr. Jones.
4 BOARD MEMBER JONES: I would like to move
5 adoption of Resolution 2000-300.
6 BOARD MEMBER EATON: Second.
7 CHAIR MOULTON-PATTERSON: Was that Senator
8 Roberti that seconded?
9 BOARD MEMBER JONES: Mr. Eaton.
10 CHAIR MOULTON-PATTERSON: Oh, Mr. Eaton.
11 Mr. Jones moved approval and Mr. Eaton seconded
12 Resolution 2000-300 for a revised Solid Waste Facility
13 Permit for Central Disposal Site, Sonoma County.
14 Secretary, would you please call the roll.
15 BOARD MEMBER PAPARIAN: May I ask a question

16 about it? I'm sorry.

17 CHAIR MOULTON-PATTERSON: Certainly.

18 BOARD MEMBER PAPARIAN: Have you had any
19 communication from the local community groups? Did they
20 have any concern at this point or have those all been
21 resolved?

22 MR. SWIFT: I believe they've all been resolved.
23 The lawsuits have been settled and --

24 BOARD MEMBER PAPARIAN: Okay. Thank you.

25 CHAIR MOULTON-PATTERSON: For the record, I

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1 received a letter of support from the local Sierra Club
2 chapter.

3 Madam Secretary, please call the roll.

4 BOARD SECRETARY: Eaton.

5 BOARD MEMBER EATON: Aye.

6 BOARD SECRETARY: Jones.

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY: Medina.

9 BOARD MEMBER MEDINA: Aye.

10 BOARD SECRETARY: Paparian.

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY: Roberti.

13 BOARD MEMBER ROBERTI: Aye.

14 BOARD SECRETARY: Moulton-Patterson.

15 CHAIR MOULTON-PATTERSON: Aye.

16 Item 5 has been pulled. Item 6.

17 MS. NAUMAN: Item 6 is consideration of whether
18 San Bernardino County has met the California Integrated
19 Waste Management Board's conditions specified in
20 Resolution 1999-215 as revised respecting the Cajon
21 illegal disposal site. Scott Walker will make the
22 presentation.

23 MR. WALKER: Madam Chair and Members of the
24 Board, Scott Walker, Permitting and Enforcement Division.

25 In May 1999, the Board approved a \$750,000 AB

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1 2136 program or solid waste cleanup and codisposal site
2 cleanup program matching grant to the County of San
3 Bernardino to assist in clean-up of a major illegal
4 disposal site along Devore Creek in the Cajon Pass area.

5 The site includes approximately 200,000 cubic
6 yards of construction and demolition waste, pulled trees,
7 shrubs, and other vegetation illegally dumped off a bluff
8 above a creek. Over 90 haulers illegally disposed of the
9 waste with the property owner's knowledge as a way to
10 protect this property from creek erosion.

11 Underground and surface fires were first
12 reported in December of 1998 and smoke from the
13 underground fires continued to be visible for sometime

14 until recently and the illegal fill has sloughed off
15 towards the creek and is subject to erosion under high
16 flow conditions. The County Board of Supervisors
17 declared a state of emergency concerning the site in
18 early 1999.

19 The preliminary cost estimate for remediation of
20 the site was prepared by the County. It was
21 approximately \$3.2 million. This is significantly higher
22 than the Board's cap on AB 2136 matching grants which is
23 \$750,000. The Board approved the matching grant with
24 conditions prior to -- these conditions required Board
25 approval prior to implementing the grant agreement.

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1 One of these conditions is that the County
2 secure the additional funding necessary to complete the
3 project. The time frame for that condition was extended
4 by the Board in January of 2000 and a settlement

5 agreement with a group of large haulers addressing that
6 condition was reached by the deadline of April 3, 2000.

7 This is a complex enforcement situation and
8 there have been numerous agencies that have been or are
9 continuing to be involved in enforcement at this site.
10 The County plays the lead role in these legal actions.
11 The Board's legal and technical staff and also the

12 Attorney General's office have also provided assistance
13 in this effort.

14 Specific conditions have been addressed as
15 follows:

16 Condition one, a final remediation plan was
17 completed to address this condition dated May 24th, 2000.
18 The plan includes five major tasks performed mainly by
19 the large haulers involving temporary stream diversion
20 and grading, fire suppression, segregation of waste, and
21 load, haul and off-site recycling and disposal. It is
22 anticipated that nearly all the material removed will be
23 recycled. The project is projected to start September
24 2000 and the site restored by the end of November 2000.

25 Condition two has been addressed through the

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1 settlement agreement which confirms that the County has
2 secured the remaining funding for the project.

3 Condition three is addressed as the County is
4 the lead agency for CEQA, California Environmental
5 Quality Act, and has drafted an initial study and
6 negative declaration.

7 Condition four is addressed by the settlement
8 agreement which specifies -- and the remediation plan
9 which specifies the permitting requirements for this
10 project of the numerous agencies involved.

11 Condition five has been addressed in that the
12 County and board legal staff have recommended strategy to
13 pursue enforcement and cost recovery efforts against
14 other potentially responsible parties that have not
15 settled. The Board may further discuss litigation
16 strategy in closed session.

17 The remaining four conditions are addressed
18 through an existing grant agreement executed by the

19 County and Board which will be amended upon final
20 approval of the Board that all conditions have been met.

21 In conclusion, staff recommend adoption of
22 Resolution 2000-263 determining that the County of San
23 Bernardino has met the Board's conditions for
24 implementation of the AB 2136 matching grant for the
25 cleanup of the Cajon illegal disposal site.

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1 CHAIR MOULTON-PATTERSON: Thank you, Mr. Walker.

2 BOARD MEMBER JONES: Madam Chair.

3 CHAIR MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: I would like to -- I'm
5 going to move adoption of this resolution. I would
6 again, for the benefit of the new Members, like to thank
7 Scott Walker, Michael Bledsoe and Jennifer Rosenfeld from
8 the Attorney General's office for really yeoman's work on
9 this thing. And in the audience is Matt Marnell who is

10 lead counsel for San Bernardino County who did a terrific
11 job having to deal with 90 illegal dumpers and try to put
12 this thing together as well as Dan Avera who represents
13 the LEA.

14 I would like to move adoption of Resolution
15 2000-263, adopting the consideration of whether San
16 Bernardino County has met the conditions of the Waste
17 Board in Resolution 1999-215, revised, respecting the
18 Cajon illegal disposal site.

19 CHAIR MOULTON-PATTERSON: All right. I'll
20 second that, and I would also like on behalf of the Board
21 to thank you, Mr. Jones, for all of your work on this
22 project.

23 Secretary, please call the roll.

24 BOARD SECRETARY: Eaton.

25 BOARD MEMBER EATON: Aye.

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1 BOARD SECRETARY: Jones.

2 BOARD MEMBER JONES: Aye.

3 BOARD SECRETARY: Medina.

4 BOARD MEMBER MEDINA: Aye.

5 BOARD SECRETARY: Paparian.

6 BOARD MEMBER PAPARIAN: Aye.

7 BOARD SECRETARY: Roberti.

8 BOARD MEMBER ROBERTI: Aye.

9 BOARD SECRETARY: Moulton-Patterson.
10 CHAIR MOULTON-PATTERSON: Aye.
11 That was Resolution 2000-263.
12 Number 7, Ms. Nauman.
13 MS. NAUMAN: Thank you. Item 7 is consideration
14 of approval to formally notice regulations amending
15 standards for acceptance of insurance as a financial
16 assurance demonstration as part of Title 27, Division 2,
17 Subdivision 1, Chapter 6.
18 Madam Chairman, if I might just take a moment to
19 set the context for this item by addressing why your
20 staff has brought this item forward to you for your
21 consideration.
22 As you may recall, in September of last year,
23 the Board engaged in a lengthy and very detailed
24 discussion of captive insurance as used for closure and
25 post-closure maintenance of landfills. The transcript

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1 clearly reflects the Board's focus on the concern that
2 through the use of captive insurance a significant risk
3 for closure and post-closure cost is effectively shifted
4 from facility operators to the State.
5 Moreover, the reality that changes in the
6 financial status or strength of a parent entity can

7 impair the ability of a captive to meet its closure and
8 post-closure obligations led to the adoption of a
9 resolution wherein you precluded the use of captive
10 insurance if those insurers were licensed outside of
11 California. And further, you directed Waste Management,
12 the only operator that was utilizing the captive at that
13 time, to shift from its captive to other financial
14 assurance mechanisms.

15 Therefore, on the basis of your policy direction
16 in September and your affirmation of that direction
17 during last month's discussion in Visalia as you
18 considered the emergency regulations for Class I
19 facilities that are involved in taking non-hazardous
20 waste, staff is proposing the next step to ensure the
21 Board's policies are clearly reflected in our regulations
22 governing financial assurances and, therefore, we
23 respectfully request your consideration to begin that
24 rulemaking process.

25 I would like to turn the detailed presentation

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1 over to Richard Castle of our financial assurance
2 section. I presume there will be some comments and we
3 would like the opportunity to respond to those for your
4 benefit.

5 Thank you.

6 CHAIR MOULTON-PATTERSON: Thank you.

7 Mr. Castle.

8 MR. CASTLE: Good morning, Madam Chair, Board
9 Members. My name is Richard Castle and I work in the
10 Board's Financial Assurances section.

11 In this item we are presenting proposed
12 regulatory amendments of two of the financial assurance
13 demonstration requirements. Both amendments are related
14 to the financial assurance demonstration referred to as
15 insurance.

16 The first discussion is a proposed amendment
17 specifying that captive insurance is not an acceptable
18 form of financial assurances for the State. The second
19 discussion is a proposed amendment to the Board's current
20 certificate of insurance which is Board Form CIWMB-106.

21 As far as captive insurance, let me lay out a
22 little bit of the history of the financial assurances
23 also. The Board is required to maintain financial
24 assurance requirements equivalent to the federal Subtitle
25 D requirements. The Board's regulations allow for a

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1 number of alternative financial assurance demonstrations
2 for landfill operators. These include trust funds,
3 enterprise funds, letters of credit, surety bonds,
4 pledges of revenue from local governments, financial

5 means tests from private operators, corporate guarantees
6 from private operators, liability insurance, and then
7 closure post-closure maintenance and corrective action
8 insurance, and there's also a new financial test for
9 local governments that the federal government adopted and
10 we adopted equivalent regulations ourselves.

11 As you can see, insurance is the only one -- is
12 only one of a number of alternatives available to
13 landfill operators for these demonstrations.

14 In the written item that you have before you,
15 you'll see that we laid out a brief description of the
16 Board's financial assurance requirements and how they can
17 be used. If any further discussion is needed regarding
18 the financial assurance requirements in general, I'll
19 respond to any questions that you may have. Otherwise, I
20 want to proceed with this item.

21 All the financial assurance demonstrations
22 accepted by the Board provide the security of either a
23 third party maintaining the financial integrity of the
24 demonstration or the use of a stringent audited financial
25 analysis of the operator or provider, both of which

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1 reduce to an acceptable level the risk to the Board in
2 the event of a default. All the accepted demonstrations
3 provide the protection associated with either the

4 unlikely simultaneous financial failure of at least two
5 independent entities or a sensitive trigger of the
6 operator's financial downturn while the operator would
7 still be financially capable of providing an alternative
8 financial demonstration.

9 The Board relies on the California Department of
10 Insurance as experts dealing with insurance to review
11 insurance providers and make the determination of
12 insurance law. The CDI, California Department of
13 Insurance, makes in-depth audits of the financial
14 abilities and underwriting practices of the insurer to
15 determine the continued ability of the insurer to meet
16 its obligations.

17 With the passage of AB 715, the statutes of
18 1998, that statutory change specified that the Board may
19 review and approve captive insurance companies of solid
20 waste facility operators as a financial assurance
21 demonstration. As a brief definition of the captive
22 insurer, it is an insurance carrier that only provides
23 financial assurance to the operator that has established
24 the insurance carrier as a form of self-insurance. The
25 financial abilities are derived from the financial

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1 ability of the parent company.

2 The proposed regulation amendment will clarify

3 that only insurers that either maintain a Department of
4 Insurance license as admitted insurers or that are
5 eligible to provide coverage as a surplus lines insurer
6 in California will be eligible to provide financial
7 assurance demonstrations to the Board. The proposed
8 regulations will also exclude the use of captive insurers
9 for these demonstrations. The closure insurance coverage
10 insurers -- I'm sorry.

11 AB 715, as I said, was chaptered in 1998
12 allowing the Board this alternative approval process for
13 captive insurers of landfill operators. The alternative
14 is for the Board to develop its own set of standards for
15 captive insurers to meet instead of requiring the captive
16 insurer to meet requirements of the Department of
17 Insurance. The Board considered adopting regulatory
18 standards for an approval process for captive insurers of
19 landfill operators during the September 1999 board
20 meeting but resolved to disallow the use of the captive
21 that was in question at that time. This decision is also
22 consistent with the permissive language of AB 715, which
23 is the basis for the proposed regulation amendments
24 presented in today's item.

25 In evaluating criteria to utilize captive

2 demonstrations such as trust funds, letters of credit and
3 surety bonds was determined to be appropriate. The key
4 issue identified was that all the alternative financial
5 demonstrations, within all of them the State is able to
6 access the available assurances through a third party.
7 I'm sorry. I mentioned this earlier, but I think it
8 bears repeating.

9 These third parties are financial institutions,
10 commercial insurers, federally rated surety insurers or
11 legally separate public entities. The only case where
12 there's no third party entity involved is the financial
13 means test and the corporate guarantee allowed for
14 private operators. However, the strict financial test
15 that must be met to use the financial means test and the
16 corporate guarantee provides the State with the assurance
17 that the necessary funds will be available, even if the
18 operator encounters a serious economic downturn.

19 In contrast, the captive insurer, while a
20 legally separate entity from the parent company, does not
21 necessarily maintain an adequate financial ability to
22 provide the necessary assurances to the State, and that
23 was the discussion that happened in September.

24 To continue, the closure insurance coverage in
25 general insures that -- insures the operator against the

1 expense of closing the landfill. The intent of the
2 coverage and the language of the Federal Code under Title
3 40 Code of Federal Regulations identifies that once
4 closure or post-closure care begins, the insurer will be
5 responsible for the paying out of funds to the owner or
6 operator. This language is intended to contractually
7 transfer the obligation of closure expenses to the
8 insurer.

9 One of our main continuing problems with captive
10 insurance is that there is a conflict between the
11 abilities of captive insurers and the requirements within
12 Title 40 of the Code of Regulations. This additional
13 concern relates to the transferability of the policy.
14 Within Subtitle D there's a specific statement that each
15 policy must contain a provision allowing assignment of
16 the policy to a successor owner or operator.

17 Within the Board's own regulations in Title 27
18 we have very similar language stating that each policy
19 shall contain a provision allowing assignment of the
20 policy to a successor operator. The conflict comes when
21 we review our new section in the Public Resources Code
22 43601(e) to (c) which was added by AB 715. That requires
23 the insurance carrier only provide financial assurance to
24 the operator that has established the insurance carrier
25 as a form of self-insurance and does not engage in

1 providing insurance coverage to other parties.

2 The Board is required to maintain financial
3 assurance requirements which are equivalent to the
4 federal Subtitle D program to maintain the State's status
5 as an approved state under the Subtitle D regulation. In
6 maintaining equivalent requirements, the Board must allow
7 the use of any financial mechanism set forth in Part 258
8 40 CFR. That's within our statutory, not the federal
9 requirements. We have our own under the Public Resources
10 Code requirements that we have to allow all the federal
11 demonstrations.

12 In allowing the use of federally approved
13 financial insurance mechanisms, the Board is allowed the
14 flexibility to reasonably condition the use of any of the
15 financial mechanisms. The exclusion of captive insurance
16 is, in staff's opinion, a reasonable condition to the
17 allowance of insurance as related in this Board item and
18 in the September '99 item which was discussed.

19 From discussions with USEPA staff and the -- and
20 our study of the federal regulations and background
21 documents, it seems apparent that closure insurance as
22 allowed in Subtitle D was not envisioned to allow captive
23 insurers to provide financial assurance demonstrations.
24 This conclusion is supported by the inherent conflict
25 which arises in the acceptance of captive insurance given

1 the inability of the captive to provide insurance
2 coverage to other parties.

3 The Board's current regulations and the proposed
4 amendments are in conformance with the federal
5 requirements and are within the Board's authority under
6 current California statute to consider all financial
7 demonstrations and reasonably condition the use of any
8 one of those financial demonstrations.

9 As I mentioned earlier, this is kind of like a
10 two-piece item. That long discussion was the first piece
11 of captive insurance. The second piece of the item is a
12 minor amendment to our certificate of insurance that we
13 currently have for closure post-closure maintenance and
14 reasonably foreseeable corrective action.

15 The Board's current regulations identify that
16 insurance coverage for closure post-closure maintenance
17 and reasonably foreseeable corrective action must be
18 presented in the Board's adopted form, which is
19 CIWMB-106. The certificate was adopted with the
20 regulations that identified that ability, and any
21 amendments to that certificate need to be made through
22 the state rulemaking process.

23 The proposed amendments to 106 will provide
24 clarity to the insurer that demands by the Board for
25 payment of funds from the policy must be paid without

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1 delay by the insurer. The expectation of staff regarding
2 the insurance coverage presented to the Board as a
3 financial demonstration is that coverage must be similar
4 in security and availability as that of a trust fund.
5 The current language of the certificate of insurance was
6 drafted with the intent to control disbursements from an
7 insurance policy to the facility operator to ensure that
8 closure activities were proceeding as described and
9 approved through an approved closure plan.

10 The proposed amendment to the certificate will
11 maintain that assurance in that the disbursement from the
12 insurer to the operator will be in accordance with the
13 closure plan and will be made with the approval of the
14 Board for each disbursement. In addition, the proposed
15 amendment to the certificate will allow the Board to draw
16 on the policy requiring the insurer to disburse monies
17 directly to the Board's control for the full remaining
18 value of the insurance at the Board's discretion. This
19 will be clarifying that the insurer must respond
20 immediately to the Board's demand for disbursements and
21 it will hopefully avoid delays in payments from insurance
22 companies.

23 Obviously you have options today, probably more
24 than we've identified in the item, but the item
25 identifies three options. And one is to not pursue --

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1 do not pursue regulatory amendments excluding captive
2 insurance as a financial assurance demonstration and
3 amending the certificate of insurance for closure.

4 The second option would be to direct staff to
5 bring an item to a subsequent board meeting to discuss
6 the proposed regulation amendments in further detail.

7 The third one, which is the staff's
8 recommendation, is to direct staff to formally notice the
9 draft regulations excluding captive insurance as a
10 financial assurance demonstration and amending the
11 current certificate of insurance for closure post-closure
12 maintenance and reasonably foreseeable corrective action.

13 There is no resolution in this item because you
14 would just be directing staff to notice regulations. We

15 are not adopting regulations today. The request is only
16 to begin the public notice process with the rulemaking
17 which would then bring in all the public comments on the
18 regulation package.

19 If there's any questions, we're here.

20 CHAIR MOULTON-PATTERSON: Thank you. Before we
21 have our speakers, do any Board Members have any
22 questions of staff?

23 Mr. Paparian.

24 BOARD MEMBER PAPARIAN: Would you just elaborate

25 on the last point? If you're directed to move forward,

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1 what additional opportunities will there be for

2 involvement with outside parties?

3 MR. CASTLE: If the Board chooses to direct

4 staff to move forward today, we would begin the

5 regulation process, which means that the regulations that

6 are in this package which are proposed would go out for

7 public notice. The public notice period is 45 days where

8 we would be receiving comments from every interested

9 party and the public. If requested, we would have a

10 public hearing at the end of the 45-day comment period.

11 Any amendments that needed to be made would be made --

12 would then be made based on those comments and on Board's

13 comments and have -- subsequent notices have to happen.

14 We would go through a process.

15 We have a year to complete the regulations once

16 we begin, but we have to allow a minimum 45-day public

17 notice right at the beginning and all the comments have

18 to be responded to in the rulemaking. At the end of

19 receiving all the comments and making any possible

20 amendments to the regulations, then we bring the final

21 regulations package back to the Board for adoption. So

22 today by no means is adoption of regulations. It's just

23 noticing regulations for comment.

24 BOARD MEMBER JONES: Madam Chair.

25 CHAIR MOULTON-PATTERSON: Mr. Jones.

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1 BOARD MEMBER JONES: I've got -- on the
2 insurance issue, on the new demand issue, we've had --
3 after my briefing or during my briefing we had a pretty
4 long discussion about it and since then we've had a
5 couple of discussions about it.

6 I know what's driving it. I agree with the
7 staff that we've got to be able to have the ability to -- if
8 we've got a \$5 million dollar policy in place, we've got
9 to have the ability to get that and not let them spend \$2
10 million fighting us in court out of that same policy.
11 But the one thing that I had asked Mr. Castle for, which
12 he delivered, was that there are 14 facilities using --
13 and we're not talking captive insurance here. We're just
14 talking insurance.

15 There's 14 different facilities using insurance
16 with six different carriers, some for closure, some for
17 closure post-closure, some for reasonable foreseeable
18 corrective actions, and another one for closure and
19 post-closure.

20 The one thing that bothers me about the way this
21 is written is that -- this is on page 7-19H, where the
22 second to the last line or the last sentence says, "The

23 policy shall further guarantee that the insurer shall,
24 without delay, pay the Waste Board the amount the Waste
25 Board requests up to the amount equal to the face value

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1 of the policy," and while we have got to be able to get
2 those funds when we need them, they're -- this -- I can
3 see this being needed if there was a failure, but the
4 operation of a landfill is an ongoing operation where
5 you're doing daily operations as well as closure. And
6 part of those closure activities being part of the daily
7 operations really minimize your expenses on closure. It
8 just kind of works out that way. You're utilizing your
9 equipment better.

10 We've got to be careful to understand that there
11 may be an operator who is doing a lot of this work during
12 the daily operations for his closure post-closure, is in
13 no reason to go into default, and I want to know what
14 triggers the Waste Board to put a demand on that
15 insurance policy because that's just not enough for me to
16 just say that the Waste Board shall demand. And some
17 insurance policies are written with umbrellas, with an
18 overriding umbrella, and are we giving ourselves the
19 authority to go after the overriding umbrella? We have
20 to talk about that.

21 We also have to -- and face value is a \$5

22 million policy with a \$100 million umbrella is -- could
23 be argued as to what is the value of that insurance
24 policy. The thing that I would like to see happen are
25 those six insurance companies notified that are dealing

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1 with these 14 facilities to see if, in fact, what this
2 demand language does to those existing policies because
3 irrespective, if we adopt or put these out for 45-day
4 notice, it's after the policy has been written. So I
5 don't know if that condition is -- has the validity over
6 what was written originally when this condition didn't
7 exist.

8 I also want to know if insurance policies are
9 going to be terminated because of the writing of this
10 language. I think when we have 14 facilities that are --
11 that are -- that require this insurance and that's their
12 mechanism, I think we need to know what -- what actions
13 this language is going to do. If it has no effect, which
14 I'm hoping it doesn't, which in the real world, getting
15 back to common sense, if you write an insurance policy
16 for \$5 million, that you would expect when there's a need
17 that policy is going to be worth \$5 million, but I would
18 like to know if this is going to have an effect.

19 I don't want to put 14 facilities in the
20 position of not having financial assurances because of

21 this language, because of this demand language.

22 CHAIR MOULTON-PATTERSON: Mr. Castle.

23 MR. CASTLE: The insurance companies that we've
24 identified that we have policies from could definitely be
25 and would definitely be included in the notice on the

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1 regulations since they would be specifically impacted by
2 any change to the regs. So they have an opportunity to
3 comment. If you want to us contact them outside of that
4 and make direct inquiries to them other than just
5 noticing the regs, staff would do that too.

6 There's only 14 facilities and there's only six
7 operators -- or six insurance providers, so that would be
8 a reasonable request. It could still happen during the
9 public comment period though, so --

10 BOARD MEMBER JONES: But what if during the
11 public comment period these guys didn't respond and then
12 all of a sudden these 14 facilities were without
13 insurance?

14 MR. CASTLE: I hear Kathryn clicking.

15 MS. TOBIAS: I think in response to -- I heard
16 two questions, at least, from Mr. Jones. One is that we
17 would -- generally when the Board changes one of its
18 regulations or if the law is changed, we're generally
19 doing it in the interest of the public health and safety,

20 so it does then change that requirement, and companies or
21 operators would have to come into compliance with it.

22 We've had an ongoing discussion with the Office
23 of Administrative Law as to whether we can basically
24 build in a compliance period and we've had this problem
25 on several of our regulations lately where what we would

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1 like to be able to do is say operators have 60 days or
2 whatever, some time period to come into compliance. And
3 OAL has said that they're uncomfortable with that, but
4 what they have said is that we can delay the
5 implementation of the regulations so that operators would
6 be put on notice that the Board intends to change the
7 regulations and then they would have again "X" amount of
8 time to come into compliance.

9 That's something that -- actually, I've been
10 meaning to meet with the Office of Administrative Law and
11 see if we can get the compliance period within the
12 regulations instead of having to delay it. That's kind
13 of a side point.

14 I think your suggestion about notifying and
15 involving those insurance companies and those operators
16 in the discussion of the regulations is entirely
17 appropriate and I think would be very helpful to the
18 Board in having them come back and tell what the

19 ramifications of this are.

20 I do think that to a great extent that this has
21 always been at least the intent of having insurance
22 policies in financial assurances, as we have discussed in
23 the past. To a certain extent calling these insurance
24 policies is a little bit of a misnomer anyway because
25 they're not a question of insurance policy where there's

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1 the possibility of some kind of disaster such as a fire
2 or something like that. The fact is that at some point
3 in time, whether it's 150 years from now or 20 years,
4 these facilities will be closing.

5 Really what these regulations are intended to
6 address is the fact that if there is a failure, and
7 that's the only occasion that I can think of at the
8 moment which would trigger a demand on these policies,
9 the intent is that whatever financial assurance the
10 operator has would be there at that moment to pay
11 whatever the face value of that is and not to have an
12 insurance company question whether or not there's been
13 compliance with certain situations or whether there
14 should be a payment.

15 It's a fact that the financial assurance is
16 supposed to be there at the time to cover that. So I
17 don't see this as -- I see this more as making it very

18 clear in the regulations, the letter of the law as
19 opposed to what the intent of financial assurances has
20 always been. So I hope I covered the questions I heard
21 you ask, but if not, please ask another one.

22 CHAIR MOULTON-PATTERSON: Mr. Jones.

23 BOARD MEMBER JONES: Yeah. I'm going to -- I
24 don't think that -- if the way we accept insurance
25 policies doesn't meet our expectations, then we need to

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1 know that now. And if they do meet the expectations,
2 then this is a moot point. But I think that creating
3 the -- sending the reg package out and letting operators
4 be at the whim of an insurance company without us first
5 finding out doesn't make any sense to me. I think we
6 need to know for our own satisfaction and we also need to
7 make sure that we don't put 14 facilities because if they
8 don't have insurance and they don't have closure
9 post-closure funding, they're shut down. It goes into
10 closure.

11 MS. TOBIAS: Within a certain number of days.
12 They still -- they have a compliance period in addition
13 to any time period that the Board would adopt either
14 putting new regulations into effect, but there's still --
15 so there would be -- there's both the 45-day time period
16 in which we could meet with them, there would be their

17 opportunity to come into the public hearing, which the
18 Board always holds on regulations. There's several
19 review comment periods.

20 If there are changes made to the regulations,
21 then there would be the time period in which the Board
22 would arrange for the operators to know that the
23 regulations were adopted and then -- I don't remember.
24 Richard probably knows exactly how much time they have to
25 come into compliance with the financial assurances. Is

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1 it 60 days in this case?

2 MR. CASTLE: I was having a side conversation.
3 You're saying if there was a failure with one of the
4 mechanisms?

5 MS. TOBIAS: Once the regulations are adopted
6 and there is a change in the financial assurance, if they
7 don't already comply with this, how many days do they
8 have to comply?

9 MR. CASTLE: Well, essentially what we would be
10 saying is that the current demonstration would not be
11 acceptable, which would be a failure of that financial
12 demonstration. So the operator would have 60 days to
13 present us with an alternative acceptable financial
14 demonstration. So in your scenario if the insurance

15 company were to raise the rate or refuse to continue the
16 policy, the operator would have 60 days to not pay the
17 higher rate and provide us with an alternative
18 demonstration or, if the policy was canceled outright, to
19 present an alternative acceptable financial
20 demonstration.

21 MS. TOBIAS: So just for example, that means if
22 we put the implementation date of the regulation either
23 60 or 90 days out plus the 60 days, that they would have
24 to change their financial mechanism plus the 45 days plus
25 any review period. We're talking really around six

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1 months before this -- before they would be asked to come
2 into compliance. And again, I stress even their policies
3 may, in fact, reflect this already. We're just making
4 this clear that this is the expectation. So just to kind
5 of count it out for the Board.

6 MR. CASTLE: From our discussions earlier with
7 Member Jones was the concern that this could raise the
8 premiums and that's kind of the premise we've been going
9 on in this discussion. One of our comments back during
10 that discussion was that we believe that a fair and
11 honest reading of our current requirements, the insurer
12 would already be providing what we're after. It's
13 probably harsh language to say fair and honest because we

14 haven't experienced exactly what we thought we would
15 experience with that.

16 BOARD MEMBER JONES: And that's my point, is
17 that we accepted a mechanism that didn't work out the way
18 we thought it would work out. I don't care so much about
19 the premium payments. What I'm more worried about is if
20 we expected this insurance in the one facility that we
21 accepted it to dispense with its obligations a certain
22 way and it didn't, then I would prefer to know before we
23 went into a reg package what these other six insurance
24 companies covering 14 facilities, how they intend to meet
25 what was the intent of our regulations.

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1 That's all I'm trying to get at here, and I'd
2 like to do it prior to a reg package because if they
3 determine for one reason or another that this is a way to
4 get out of writing insurance, maybe -- insurance policies
5 are contiguous and they don't get to just walk away if
6 something is found. I don't want to give them an
7 opportunity to walk away from something that somebody has
8 been paying into for the last ten years.

9 It's a pretty simple request, I think, to just
10 ask that is this language any different than what you
11 assume our regulations to mean. If the answer is no,
12 then bring it back the next week and I'm comfortable with

13 supporting it. If the answer is yeah, it's completely
14 different, then I think that goes to what did our regs
15 really accomplish, what did they do, what was our -- what
16 did we miss.

17 If this was language we missed, that's fine, but
18 I want to make sure those facilities don't lose the
19 opportunity to continue to use the mechanism that they've
20 been using just because an insurance provider sees this
21 as a different condition and a way to get out of
22 continuing insurance coverage. So it's a little bit of a
23 double-edged sword.

24 MR. CASTLE: And the concern, if I can, the
25 concern that we have as staff is that if we aren't

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1 getting what we think we want anyway, if throughout the
2 state with these other 14 facilities we don't have the
3 demonstration that we need, then in our opinion that's
4 all the more reason that we need this regulation changed
5 because we --

6 BOARD MEMBER JONES: Exactly.

7 MR. CASTLE: -- to make this insurance coverage
8 equivalent to the other financial demonstrations that we
9 have where when the Board orders something we need the
10 payment immediately. That would be all the more reason
11 that we need to have the regulatory change in place.

12 BOARD MEMBER JONES: Or some regulatory change.

13 MR. CASTLE: Yes. Some regulatory change.

14 And without having the clear explanation in the regs,
15 we've already found that we've had a problem in one
16 situation. To preclude that in the future, we need the
17 clear definition of what we want and what we expect from
18 the policy. If they are not providing that to us, then
19 we do not have the coverage or the assurance that we
20 believe we have at this point. And the answer is we
21 believe we have the coverage, we believe we had it on the
22 last one, and this would just clarify that we do, or if
23 they are not willing to provide that coverage, we will
24 not have that insurer anymore, but if they're not
25 providing it now and they're not willing to provide it,

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1 all we've done is allow a demonstration that's going to
2 buy the Board more problems.

3 BOARD MEMBER JONES: I think you and I want the
4 same thing. We're just looking at it differently. I'm
5 not prepared to put in a reg package that sets up another
6 demand that hadn't previously been articulated and let 14
7 facilities potentially be out of compliance. If those
8 six companies say this is what we do, then those 14
9 facilities are not having a problem.

10 If the answer comes back and says no, that's not

11 our intent to pay, then it gives us a chance to notify
12 those 14 facilities and say in talking to your insurance
13 carriers, you don't have any one of those three policies
14 in a way that meets our mandate. You need to start
15 figuring out what you're going to do. That the
16 opposite -- or -- and that's how I see this thing playing
17 out.

18 I see if we just put it in without checking with
19 them, then two potential things if, in fact, the answer
20 is wrong that we don't like. One, that they can quit
21 insuring this company, leaving them without a mechanism,
22 and we put the operators in the position of not having
23 any way to argue with their providers that this is what
24 they were supposed to be doing.

25 Maybe it's semantics. Maybe it's just the

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1 realization that sometimes just because you write a reg
2 package it's got consequences that we could eliminate,
3 we could manage more easily by just getting the answer to
4 this question prior to putting this thing out. That's
5 just how I see it.

6 CHAIR MOULTON-PATTERSON: Did any other Board
7 Members have a question before we had the speakers?
8 Questions or comments?

9 Okay. Mr. Chuck White of Waste Management.

10 MR. WHITE: Thank you very much, Madam Chairman
11 and Members of the Board. Chuck White with Waste
12 Management. It seems like I've been up on this issue
13 here before the Board in the past. To a couple Board
14 Members this perhaps may be a new issue.

15 Our comments are really towards the two issues
16 that were framed by Mr. Castle. One, part of the
17 regulation would propose to prohibit the use of captive
18 insurance. The other one would amend your insurance
19 form, Form 106. Most of my comments are going to be
20 directed towards the first issue, which is the issue of
21 prohibiting the use of captive insurance.

22 Our first comment with respect to that issue is
23 that we really don't think the regulations are necessary
24 in that no one is using captive insurance for a solid
25 waste facility in California. Waste Management was using

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1 it at a number of our landfills prior to September of
2 last year, at which time the Board took action to
3 restrict the use through adoption of Resolution 1999-485.
4 Waste Management immediately took action to transition
5 from all of its captive insurance policies to alternative
6 mechanisms, and I believe those are fully in conformance
7 with the Board's regulations and any resolutions adopted
8 by the Board.

9 The only facility for which its being used is at
10 the Kettleman Hills hazardous waste facility which is
11 primarily regulated by the Department of Toxic Substance
12 Control. You may recall that this issue came up as part
13 of the meeting in Visalia.

14 My understanding was that that issue would be
15 addressed not in the emergency regulations that the Board
16 authorized to proceed at the Visalia meeting, but through
17 the formal rulemaking there would be a meeting to sit
18 down and discuss how the financial assurance mechanism
19 between the hazardous waste side and solid waste side
20 would be resolved and discussed further prior to the
21 adoption of final regulations. So I understood that that
22 one issue with respect to our Kettleman Hills facility
23 was going to be handled through a separate means, at
24 least that was my understanding.

25 The basic point is that there really is no need.

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1 Waste Management will never use a captive insurance
2 policy that we have established for landfills in
3 California until it receives the approval of this Board
4 and simply flat out won't use it. We would like to
5 preserve the opportunity to come back to this Board at
6 some future date -- we don't have any intention of doing
7 it today or tomorrow or in the immediate future -- but to

8 come up with a possible approach to using captive
9 insurance that would meet the concerns and needs of this
10 Board.

11 Like I say, I'm not prepared to do that today or
12 anytime in the near future, but the adoption of these
13 regulations that would prohibit it would basically
14 completely foreclose that, and we would like to have --
15 continue to have an opportunity for dialogue and
16 discussion with the Board on the use of captive insurance
17 in the future.

18 The second concern we have with respect to this
19 proposed provision is that we believe there's a
20 reasonable interpretation of state law that such a
21 regulation would be in direct conflict with statute. The
22 statute was adopted as part of legislation back in 1992
23 and it basically provides that the Board can reasonably
24 condition any mechanism that is allowed by federal law
25 basically, if necessary, to protect human health or the

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1 environment. You can add additional requirements, you
2 can add additional controls, but the statute specifically
3 says you cannot exclude the use of a mechanism that is
4 permitted under federal law.

5 As I'm sure you're aware, captive insurance, at
6 least as they are using throughout the United States in a

7 number of cases, we believe it is permitted under federal
8 law. So therefore, it would raise a conflict or at least
9 a potential conflict between your proposed statutory
10 language -- or regulatory language and that of statute.

11 We would urge the Board that really again, going
12 back to point number one, it's not really necessary to
13 create that conflict because Waste Management has no
14 intention of using captive insurance until such time it
15 meets the approval of this Board. So in a sense the
16 status quo is not using captive insurance. There's no
17 need to adopt a regulation that is something that is
18 already occurring, and you have my absolute commitment
19 and the commitment of my company that we will not use
20 captive insurance for a solid waste facility until we
21 have received the approval of this Board.

22 There are a variety of technical issues that I
23 could go into more detail today. Actually I prefer not
24 to because I am by no means a consummate expert on the
25 details of insurance and financial assurance. However, I

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1 would like to have the opportunity to bring those people
2 that are experts to this Board or to the staff or through
3 some mediated workshop or some kind of forum where we can
4 sit down and explore the issues, is it -- does it
5 literally look like surety or really is it insurance. We

6 believe it is insurance because we're required to comply
7 with the regulations that are applicable to our
8 particular captive insurance policy. So therefore, we
9 don't think it is a surety.

10 Our captive insurance companies adequately
11 capitalize. We believe they are capitalized, at least in
12 the case of the state of Vermont, which regulates the
13 captive that we use. The state of Vermont is the captive
14 insurance capital of the western world in a sense. They
15 have the most sophisticated program for regulating
16 captives.

17 And really there's a statistical fact that I
18 think is persuasive in that the 20 years that captives
19 have been regulated by the state of Vermont, there has
20 never been a failure of a Vermont-regulated captive to
21 pay an insurance claim. That has never happened in 20
22 years. If you turn to insurance companies regulated by
23 any other insurance regulatory program, the same cannot
24 be said. Certainly that includes the state of
25 California.

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1 These are some of the issues. We think there is
2 a credible argument to be made that the manner in which
3 Vermont regulates the captive insurance industry in that
4 state is a credible program. We believe a persuasive

5 argument can be made that this is fully protective, that
6 there is adequate assets, and if there is ever a problem
7 the state of Vermont would be able to foresee it in the
8 coming and be able to take action to increase the amount
9 of required assets backing up the company or preclude its
10 use at which time we have the transition to another
11 mechanism.

12 Again, I would like to be able to go in and
13 explore this issue on how Vermont regulates its captives

14 and try to provide you with information to assuage your
15 concerns that it is, in fact, a safely regulated
16 facility. There is the issue of transferability. Our
17 policies do provide they are transferred to a new owner.
18 The practical effect, though, is any time we sell a
19 facility, we make sure the new owner has a financial
20 assurance mechanism as required by the Board. So
21 practically speaking, that never happens. And there may
22 be a conflict with the statutory language, but that was
23 not intentional. I think we can solve that problem
24 through a possible amendment to the Figueroa Bill that
25 enacted the most recent requirements on captive insurance

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1 in California.

2 So I guess my point in all this is that I would

3 like to have the opportunity to continue the dialogue.

4 Again, we're not using captive insurance but we would

5 like to be able to continue having that discussion.

6 There is no need for the regulations banning the use of

7 captive insurance.

8 The second issue has to do with the issue of the

9 form. To be perfectly honest with you, I haven't had a

10 chance for our insurance folks to look at that language

11 that you're proposing for your Form 106. It may be okay.

12 There may be a concern with it. I would like to have the

13 opportunity and I understand I would have the opportunity

14 in the 45-day comment period, but we would like -- we

15 would feel more comfortable, reiterating what Mr. Jones

16 indicated, that we would like to have the opportunity

17 prior to public notice to be able to have adequate time

18 to see if this language would cause a potential problem

19 in any way and be able to articulate that to you before

20 you do go out to public notice.

21 I guess the bottom line after all these issues

22 is we would request the Board not proceed with the

23 adoption or moving forward with the public notice of

24 these regulations but allow us to have an opportunity at

25 some future date to be able to reopen the discussion with

1 respect to the -- what we believe to be the benefits of
2 captive insurance and be able to make that argument to
3 you, but in the meantime we have no intention of using it
4 and won't use it until the Board gives its approval.

5 Thank you very much.

6 CHAIR MOULTON-PATTERSON: Thank you, Mr. White.

7 Questions, Mr. Paparian?

8 BOARD MEMBER PAPARIAN: Before you go away,
9 Mr. White.

10 MR. WHITE: Sure.

11 BOARD MEMBER PAPARIAN: Why isn't the regulatory
12 proceeding process that was described to us adequate to
13 meet your needs for participation that you described?

14 MR. WHITE: Well, I guess if there was a need
15 for the regulation in that if we, for example -- if Waste
16 Management were to proceed in using captive insurance and
17 wasn't paying attention to what the Board's resolution
18 was in September and you wanted to take action to
19 preclude the possibility, there might be rationale. But
20 the point is Waste Management is -- I'm trying to and the
21 company really wants to cooperate with the Board and we
22 don't want to use the mechanism, so I guess my point is
23 there's no need for something that would close the door
24 once and for all and we would like -- we believe there's
25 a good story to tell on captive insurance.

1 For whatever reason, we have not been able to
2 articulate that satisfactorily and perhaps that's our
3 fault, but we would like to be able to continue having
4 that opportunity. And if there's no need for the
5 regulation because no one is using it, without the
6 approval of the Board would be required anyways, and in
7 fact we have specific state legislation that says you can
8 condition it but can't exclude it, and Senator Figueroa
9 authored legislation of two years ago that specifically
10 established criteria for the use of captive. We felt
11 that was the direction, prior to last September, that
12 made the most sense. Let's figure out what criteria
13 makes sense to condition the use of captive insurance but
14 not preclude it as a possibility.

15 If it's allowed under federal law, we believe
16 state statute says you have to allow it, although you can
17 impose conditions on how it can be used and regulated.
18 That was what our hope was, that we would explore some of
19 those additional options for conditioning it in a manner
20 that this Board would feel comfortable in allowing its
21 use.

22 BOARD MEMBER PAPARIAN: On that last point, I
23 wonder if I could ask the staff. One of Mr. White's main
24 points is that you can condition it but not exclude it
25 under the state law. I wonder if the staff would respond

1 to this, why this won't be allowable under state law.

2 MS. TOBIAS: Sure. I'd be happy to.

3 The provision that we're looking at is 43601(b),
4 and basically what it says, and I think Richard has gone
5 over this and so has Mr. White, but it basically says the
6 Board may adopt regulations which reasonably condition
7 the use of one or more of the federal or state
8 mechanisms, and the reason is to ensure adequate
9 protection of public health and safety and the
10 environment. But as Mr. White and Richard have both
11 said, we shall not -- we are not allowed to exclude the
12 use of any mechanism.

13 The question is what is the mechanism. Is the
14 mechanism insurance or is the mechanism captive
15 insurance? Legal office, and I think the financial
16 assurances group, basically thinks that the mechanism
17 we're talking about here is insurance, and what we can do
18 is condition the use of insurance if it's necessary to
19 protect public health and safety. And what we're
20 basically saying here is that we don't think captive
21 insurance, one subset of insurance is satisfactory to
22 protect public health and safety.

23 Arguably you can argue that captive insurance is
24 the mechanism. In that case, if we prohibit it, then you
25 couldn't do that, but I don't think that's what the law

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1 says. I think the mechanism we're talking about is
2 insurance, and then captive insurance is a subset of
3 that.

4 In addition, Section 43601(e) also basically
5 says that -- and I think these are the relevant
6 conditions that we need to talk about -- is that the
7 mechanism has to be in full compliance with the requests
8 for insurance that are specified. And in that it
9 basically says that the insurance carrier may only
10 provide financial assurance to the operator that has
11 established the insurance carrier as a form of
12 self-insurance and may not provide insurance coverage to
13 other parties.

14 So the problem is that the captive insurance is
15 not basically assignable, which violates one of the basic
16 provisions of the financial assurances in the first
17 place.

18 So dealing with both those provisions, one says
19 that all we're doing is conditioning one mechanism. And
20 second of all, we don't think that captive insurance
21 really meets the definitions of what's allowed in the
22 first place.

23 So in answer, that basically I think explains
24 why staff is coming forward and suggesting this language.

25 MR. WHITE: If I may respond just briefly to

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1 that is that those issues that you cited in that section
2 of statute were -- at the time they were the best
3 thinking that we had on what were the additional
4 conditions that should reasonably be imposed so as to
5 protect the interests of the state of California. And we
6 met several times with the staff with coming up with
7 specific language that could be put into the Figueroa
8 bill, and this was language that we thought there was a
9 reasonable agreement on that would limit the liability,
10 the idea being is you don't want to have captive insurer
11 going off and insuring risks that it doesn't have control
12 of.

13 So there was the intention to use this as a
14 vehicle to assuage the Board's concerns. There was no
15 intention of there being any conflict. If there is a
16 conflict there, it can be solved through a possible
17 statutory amendment to remove that conflict without doing
18 damage to the basic intent as to limit how captive
19 insurance and how broadly captive insurance can be used.

20 MS. TOBIAS: I would also point out these are
21 regulations. They are subject to change if the Board so
22 desires. So one way to do this is if the Board does want
23 to basically disallow captive insurance at this time, it
24 doesn't mean that an operator can't come back in and

25 present a case of how things have changed and why they

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1 think that captive insurance should now be allowed. So

2 it kind of goes both ways on that.

3 CHAIR MOULTON-PATTERSON: Thank you, Mr. White.

4 Mr. Eaton and Mr. Jones.

5 BOARD MEMBER EATON: I just think that --

6 obviously captive is not one of my favorite subjects, but

7 I do believe there is no harm, no foul when we have a

8 regulatory scheme by which to flesh out these issues, and

9 perhaps to get the input that Mr. Jones seeks and

10 Mr. White seeks is by setting out these regulations into

11 the public arena and getting all comments and all views

12 out there. That's why the process was set up.

13 I think historically this Board has always been

14 very, very considerate that if there isn't enough time to

15 consider any regulatory package, we have always been the

16 first and foremost to either put that off in the future

17 or grant continuances so that comment can be there. I

18 think it's just one of the situations where it's no harm,

19 no foul, and I would just recommend sending them out

20 there in the public arena and let's get some paper in

21 there, let's get some comments and see what we can do.

22 CHAIR MOULTON-PATTERSON: Thank you, Mr. Eaton.

23 Mr. Jones.

24 BOARD MEMBER JONES: I have a question. About a
25 year ago we had to adopt two new methods. What were

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1 they?

2 MR. CASTLE: The new methods that were adopted
3 for financial assurances, the latest ones were the
4 financial test for local governments. It was a financial
5 test and it's the government equivalent to the financial
6 means test that the private operators have. And then the
7 other half of that is the financial guarantee -- is that
8 the name of it -- which is the equivalent to the
9 corporate guarantee for the private operators.

10 Both of those demonstrations were for public
11 operators under the federal requirements to provide a
12 similar mechanism as the corporate operators already had.
13 The feds don't have what we call a pledge of revenue, so
14 they came up with the test and we had to adopt a test as
15 in the federal requirements. We did condition that test.
16 The test that's provided under the federal requirements
17 is for closure and post-closure. Our test from the Board
18 in our regulations is only for post-closure maintenance.
19 So we have excluded the use of that test for closure only
20 allowing it for post-closure, but that was a condition
21 that we placed on it in our regulations.

22 BOARD MEMBER JONES: So there were two different
23 things added. We allow -- or local jurisdictions
24 couldn't do a financial means test, but what other things
25 didn't they have? I guess what I'm trying to get at, I

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1 see these as mechanisms; right?

2 MR. CASTLE: Yes.

3 BOARD MEMBER JONES: And they're part of
4 mechanisms -- they're part of categories of mechanisms.

5 MR. CASTLE: Well, I don't know. I'm not
6 following you there when you say categories.

7 BOARD MEMBER JONES: Because I think it's pretty
8 weak to say that captive insurance is a subset of
9 insurance because financial means test is a subset of a
10 pledge of revenue.

11 MR. CASTLE: No. No, they're totally separate.

12 BOARD MEMBER JONES: Yeah. This has got a
13 higher standard for a city. They've actually got to show
14 they have money instead of just a charter.

15 MR. CASTLE: The financial test and the
16 financial guarantee are both specifically identified in
17 the federal requirements and that's why we specifically
18 identify them in the state requirements. All the federal
19 requirements identify for insurance is insurance. They
20 do not specifically identify captive insurance.

21 CHAIR MOULTON-PATTERSON: Did any other Board
22 Members have questions or comments at this time? Did we
23 have a motion?

24 BOARD MEMBER EATON: I don't think it is a
25 motion. It's just really a staff direction because there

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1 isn't a resolution, is there a consensus among the Board
2 to send them out or not. I think that -- is that the
3 proper way we handle these? I'll make the motion, if you
4 want, if there needs to be a motion.

5 I move that we direct staff to send these out
6 for 45-day comment period.

7 BOARD MEMBER ROBERTI: Second.

8 CHAIR MOULTON-PATTERSON: A motion by Mr. Eaton
9 to send out the regulations for 45-day comment period,
10 seconded by Senator Roberti.

11 Secretary, please call the roll.

12 BOARD SECRETARY: Eaton.

13 BOARD MEMBER EATON: Aye.

14 BOARD SECRETARY: Jones.

15 BOARD MEMBER JONES: No.

16 BOARD SECRETARY: Medina.

17 BOARD MEMBER MEDINA: I'll vote yes.

18 BOARD SECRETARY: Paparian.

19 BOARD MEMBER PAPARIAN: Aye.

20 BOARD SECRETARY: Roberti.
21 BOARD MEMBER ROBERTI: Aye.
22 BOARD SECRETARY: Moulton-Patterson.
23 CHAIR MOULTON-PATTERSON: Aye.
24 It's my intention to take this one last item
25 for your group, Ms. Nauman, and then we'll break for

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1 lunch.
2 Number 8.
3 MS. NAUMAN: Thank you, Madam Chair. This
4 should go very quickly.
5 Item Number 8 is consideration and approval of
6 reallocation of funds for fiscal year 1999-2000 for
7 Contract Concept Number 42 into an interagency agreement
8 for organic material processing facility work.
9 Diane Kihara will present the item.
10 MS. KIHARA: Good afternoon, Madam Chair and
11 Board Members.
12 Item Number 8 is for your consideration and
13 approval for reallocation of funds for fiscal year
14 1999-2000 from Contract Concept Number 42 into an
15 interagency agreement for organic material processing
16 facility work.
17 What this is is a backup plan to encumber funds
18 for -- in case we -- there's -- I'm sorry. This is a

19 backup plan to allow encumbrance of the funds in case the
20 protest of award for the environmental monitoring of
21 airborne bioaerosol contract work is found valid.

22 At the May meeting last month, the Board
23 approved a contractor, Arthur D. Little, to perform this
24 environmental monitoring for bioaerosols from organic
25 material processing facilities. As was noted in that May

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1 presentation, the award of the contract is under protest
2 and is now going through the appeal process at the
3 Department of General Services.

4 Should the protest be resolved in favor of the
5 protestant, the contract cannot be awarded to Arthur
6 D. Little and there wouldn't be adequate time for staff
7 to go out and competitively rebid the contract. So what
8 this agenda item does is it would allow for the
9 encumbrance of these funds and place them in an
10 interagency agreement with Cal Poly to provide technical
11 and research information work related to organic material
12 processing facilities. It's a current interagency
13 agreement that we have with Cal Poly.

14 So staff recommends the Board approve the
15 reallocation of the funds into the interagency agreement
16 if the protest is resolved in favor of the protestor and

17 adoption of Resolution 2000-308.

18 CHAIR MOULTON-PATTERSON: Thank you very much.

19 Any questions?

20 BOARD MEMBER JONES: Madam Chair.

21 CHAIR MOULTON-PATTERSON: Mr. Jones.

22 BOARD MEMBER JONES: I'll move adoption of

23 Resolution 2000-308.

24 BOARD MEMBER MEDINA: Second.

25 CHAIR MOULTON-PATTERSON: We have a motion by

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1 Mr. Jones, second by Mr. Medina, for approval of
2 Resolution 2000-308 for the reallocation of funds for
3 fiscal year 1999-2000 from Contract Concept Number 42
4 into an interagency agreement for organic materials
5 composting facility work.

6 Secretary, please call the roll.

7 BOARD SECRETARY: Eaton.

8 BOARD MEMBER EATON: Aye.

9 BOARD SECRETARY: Jones.

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY: Medina.

12 BOARD MEMBER MEDINA: Aye.

13 BOARD SECRETARY: Paparian.

14 BOARD MEMBER PAPARIAN: Aye.

15 BOARD SECRETARY: Roberti.

16 BOARD MEMBER ROBERTI: Aye.

17 BOARD SECRETARY: Moulton-Patterson.

18 CHAIR MOULTON-PATTERSON: Aye.

19 At this time I'd like to break for lunch and
20 ask if it's okay with my colleagues. I know this is an
21 important one. I don't want to go astray here.

22 BOARD MEMBER EATON: You know how tired and
23 angry they get.

24 (Laughter)

25 CHAIR MOULTON-PATTERSON: Right. If we could be

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1 back at 2:00 for a closed session to discuss litigation.
2 Is that -- no, no. Have lunch first at 12:30 and be back
3 at 2:00 for a closed session. Is that okay with
4 everybody? Thank you very much.

5 We'll be back for closed session at 2:00.

6 (Lunch recess taken)

7 CHAIR MOULTON-PATTERSON: I'd like to call the
8 meeting back to order. We'll report our ex parte
9 communications now.

10 Mr. Eaton.

11 BOARD MEMBER EATON: I have nothing to report,
12 up-to-date.

13 BOARD MEMBER JONES: Just quick conversation

14 with John Cupps.

15 CHAIR MOULTON-PATTERSON: Thank you.

16 Mr. Medina.

17 BOARD MEMBER MEDINA: Nothing to report.

18 CHAIR MOULTON-PATTERSON: Mr. Paparian.

19 BOARD MEMBER PAPARIAN: Nothing.

20 CHAIR MOULTON-PATTERSON: Thank you.

21 And I had a meet-and-greet with Senator Montoya
22 and Terry Leveille.

23 And we're on Item Number 10, our Special Waste
24 Division. Mr. Leary.

25 MR. LEARY: Thank you, Madam Chair, Members of

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1 the Committee. Mark Leary representing the Special Waste
2 Division.

3 We have Items 9 through 13 on your program
4 agenda today. Agenda Item 9 is a consent item. Agenda
5 Item 10, consideration of approval of the award of
6 contract for the development of community college
7 education materials to Shasta Community College will be
8 presented by Natale Lee of our Used Oil Hazardous Waste
9 Branch.

10 MS. LEE: Good afternoon, Madam Chairwoman and
11 Members of the Board. Item 10 presented for your
12 consideration today is the award of a contract to Shasta

13 Community College for the development of community
14 college educational materials.

15 The scope of work for this contract was approved
16 on the consent agenda earlier today. The contract as
17 proposed is one element of the Board's outreach efforts
18 in support of the used oil recycling program. The used
19 oil program is mandated by Public Resources Code to
20 conduct public education and outreach. School education
21 is one component of those efforts.

22 Staff has identified high school and junior
23 college students as an appropriate audience for targeted
24 outreach on the proper management of used oil and other
25 household hazardous wastes and automotive wastes.

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1 Further, staff has worked with community college
2 instructors to identify an approach which will both
3 efficiently and effectively provide needed information to
4 these audiences. This approach is detailed in the
5 approved scope of work.

6 The budget for the contract is \$64,000. Shasta
7 Community College is recommended as the contractor to
8 complete the approved scope of work. Shasta College has
9 a team of professors from the automotive technology
10 department and the science department ready to
11 collaborate on the development and distribution of the

12 proposed materials. The instructors have experience in
13 developing pollution prevention curricula and
14 environmental programs. They're already familiar with
15 the resource materials on this subject.

16 In addition, the college representatives have
17 attended conferences held by the Board to familiarize
18 themselves with the subject material. They've also met
19 with staff from the pollution prevention program at
20 Department of Toxic Substances Control to better
21 understand outreach efforts from that department.

22 Shasta Community College is continuing work for
23 the Board on the very successful recycle store program.
24 The college has also successfully completed other
25 contract work.

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1 Based on their knowledge of the material, their
2 ability to start work immediately, the unique
3 collaboration they can offer of technical staff, and the
4 successful record of contract completion for the Board,
5 staff are confident that Shasta College can perform the
6 proposed work.

7 Board staff recommend that the Board approve
8 Shasta Community College as contractor for the
9 development of community college educational materials
10 and adopt Resolution Number 2000-207.

Please note: These transcripts are not individually reviewed and approved for accuracy.

11 Do you have any questions?

12 CHAIR MOULTON-PATTERSON: Thank you.

13 Board Members, any questions? Do we have a

14 motion?

15 BOARD MEMBER EATON: I'll move we adopt

16 Resolution 2000-207.

17 BOARD MEMBER MEDINA: Second.

18 CHAIR MOULTON-PATTERSON: Thank you.

19 Mr. Eaton moves, Mr. Medina seconds Resolution

20 2000-207, approval of Shasta Community College as

21 contractor for development of community college

22 educational materials, fiscal year 99-2000 used oil

23 program Contract Concept Number 0-1.

24 Secretary, would you call the roll, please.

25 BOARD SECRETARY: Eaton.

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1 BOARD MEMBER EATON: Aye.

2 BOARD SECRETARY: Jones.

3 BOARD MEMBER JONES: Aye.

4 BOARD SECRETARY: Medina.

5 BOARD MEMBER MEDINA: Aye.

6 BOARD SECRETARY: Paparian.

7 BOARD MEMBER PAPARIAN: Aye.

8 BOARD SECRETARY: Roberti.

9 Moulton-Patterson.

10 CHAIR MOULTON-PATTERSON: Aye.

11 And let's leave the roll open for Senator
12 Roberti when he comes back into the room.

13 Agenda Item Number 11.

14 MR. LEARY: Agenda Item Number 11, 12 and 13
15 concern the management of waste tires, and presenting
16 these items will be the chief of our Waste Tire
17 Management Branch, Martha Gildart.

18 CHAIR MOULTON-PATTERSON: Thank you.

19 MS. GILDART: Good afternoon. Item 11 is
20 consideration of approval of fiscal year 99-2000 tire
21 derived green building product procurement grant award.
22 If you remember in September of '99, the Board
23 allocated \$300,000 to fund this grant program. It was
24 made available to local governments. We mailed out a
25 notice of funds available in February, and the

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1 application period included a question-and-answer period.
2 During that time we received questions as to the effect
3 of whether rubberized asphalt concrete projects would be
4 eligible for funding.

5 Because the Board in the past has issued over a
6 million dollars in grants for rubberized asphalt and
7 currently has contracts with both the County of Los
8 Angeles and the County of Sacramento to provide support,

9 those projects were deemed to been ineligible for funding
10 and staff posted the answers both on our web and mailed
11 them to all individuals requesting applications.
12 Nonetheless, when the applications were received by the
13 due date of April 15th, four out of five were for
14 rubberized asphalt concrete projects. Those projects
15 were deemed ineligible.

16 The remaining qualified applications were ranked
17 by staff and found to be passing. It was from Glenn
18 County requesting \$7,541 for the installation of fatigue
19 mats in their weight room and for their wrestling team.

20 So at this point staff is recommending approval
21 of the funding of the single grant to Glenn County.

22 Are there any questions?

23 CHAIR MOULTON-PATTERSON: Thank you very much.

24 BOARD MEMBER JONES: Madam Chair.

25 CHAIR MOULTON-PATTERSON: Mr. Paparian and then

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1 Mr. Jones.

2 BOARD MEMBER PAPARIAN: Just a quick question.

3 Did you circle back with those folks, the four out of
4 five applicants, to figure out why they had missed it?

5 MS. GILDART: We did not ask that. However,
6 they do show up later in the reallocation item. We have

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7 included them for the Board's consideration because they
8 had not actually failed a review. They were just deemed
9 to be the wrong kind of project for that particular
10 grant. We thought it would be appropriate to place them
11 in front of the Board for further consideration.

12 BOARD MEMBER PAPARIAN: It might be interesting
13 to ask them if there was something about the instructions
14 or something on this one that could be improved in future
15 applications.

16 CHAIR MOULTON-PATTERSON: Thank you.

17 Mr. Jones.

18 BOARD MEMBER JONES: Mrs. Chair or Madam Chair,
19 I would like to move adoption of Resolution --

20 CHAIR MOULTON-PATTERSON: Mr. Jones, I'm sorry.
21 I have one speaker slip.

22 BOARD MEMBER JONES: Go ahead.

23 CHAIR MOULTON-PATTERSON: Okay. Mr. Jerry
24 DeRoco.

25 MR. DE ROCO: Thank you. Jerry DeRoco, Solid

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1 Waste Management for Glenn County. I appreciate, really
2 appreciate being the only grantee in the state for this
3 grant, even if it was \$7,500.

4 Grants of this type mean so much to small
5 communities. This one is for Orlon (phonetic) High

6 School, which is a high school of about 600 students.
7 They are baking cakes and having fund-raisers to repaint
8 their exercise room in hopes that they are awarded this
9 grant. In little communities these things take on such
10 great significance.

11 About three weeks ago, two weeks ago, the
12 Butte-Glenn Community College District resurfaced or
13 commenced resurfacing their running track with a
14 co-matched grant from this Board, and it's just amazing
15 what a transformation is taking place on a campus when
16 you look out across this big green oasis, the football
17 fields and everything, this bright, shiny new red track
18 with the white striping and black and yellow baton
19 passing areas.

20 The Public Affairs Officer of the campus wanted
21 to hold kind of a ribbon cutting or first shovel full of
22 crumb rubber turning, and I wanted her to invite this
23 Board and the Board of Supervisors, but she was scared
24 that no news media would show up. So we held it with
25 just my recycling coordinator, the athletic director, the

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1 president of the college and myself. I'm pleased to tell
2 you we made the headlines with colored photographs in six
3 newspapers and two TV stations.

4 So now they want to have a real significant

5 ribbon cutting before college recommences the end of
6 August and they want to invite someone from this Board or
7 everyone because it has made such a tremendous impact not
8 only on the campus, it's a campus of 16,000 students, but
9 on the entire communities, two counties in the north.

10 I have another thank-you. It has nothing to do
11 with these waste tires. Last Wednesday -- I live in
12 Oroville but work in Glenn County. We had a fire
13 commence in a wildlife refuge south of Oroville that
14 jumped the Feather River, jumped Highway 70, went into an
15 industrial area. It burned up the Co-Gen plant, burned
16 up a wrecking yard and 400 vehicles, most of them with
17 tires, which is a horrible mess. It went within a
18 hundred yards of where you did a cleanup last year, the
19 Kofer (phonetic) tire pile. If that had gone up with
20 20,000 tires, this state would be in the headlines for a
21 while. I want to thank you for that cleanup.

22 CHAIR MOULTON-PATTERSON: Well, thank you very
23 much for taking the time to come and tell you -- tell us
24 both of those items. We appreciate it.

25 Mr. Jones.

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1 BOARD MEMBER JONES: Madam Chair, I would like
2 to move adoption of Resolution 2000-299, consideration of
3 approval of fiscal year 99-2000 tire-derived green

4 building product procurement grant awards.

5 BOARD MEMBER MEDINA: Second.

6 CHAIR MOULTON-PATTERSON: Resolution 2000-299

7 moved by Mr. Jones and seconded by Mr. Medina.

8 Madam Secretary, would you please call the roll.

9 BOARD SECRETARY: Eaton.

10 BOARD MEMBER EATON: Aye.

11 BOARD SECRETARY: Jones.

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY: Medina.

14 BOARD MEMBER MEDINA: Aye.

15 BOARD SECRETARY: Paparian.

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY: Roberti.

18 Moulton-Patterson.

19 CHAIR MOULTON-PATTERSON: Aye.

20 We'll leave that open also for Senator Roberti.

21 Okay.

22 Mr. Leary, Item Number 12.

23 MS. GILDART: I'll be presenting that.

24 CHAIR MOULTON-PATTERSON: I'm sorry.

25 MS. GILDART: Consideration of the reallocation

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1 of remaining fiscal year 99-2000 waste tire management

2 program funds.

3 I'm going to give a little history first. At
4 its May 23rd meeting, the Board considered award of funds
5 to several grant and contract items and also considered
6 the reallocation of \$1.4 million in unencumbered tire
7 funds.

8 In awarding the remediation contract, the Board
9 reduced the funding level from \$3.6 million to \$2.4
10 million, thereby removing the ability to place \$909,000
11 into that contract as recommended by staff in the
12 reallocation item. Consequently during the reallocation
13 item, the Board did increase additional funding of the
14 playground mat and surfacing grant to \$597,000 and
15 approved the remaining recommendations for reallocation.
16 However \$571,681 were left unencumbered. That is the
17 amount that we are considering here today.

18 In the item before you, Number 12, staff has
19 listed several options for the Board's consideration to
20 use those funds. However, we haven't made any specific
21 recommendations. I would like to walk you through these.

22 In Table 3 we've listed requests from either
23 local or state governments for funding rubberized asphalt
24 concrete projects. The first four projects listed, City
25 of Southgate, University of California at Davis, City of

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1 San Diego and San Joaquine County, are those four

2 applications that were deemed to not qualify for the
3 building grant. The fifth one, the City of Avenal, had
4 attended the Board's meeting in Visalia and made a
5 request of funding for this project. In the far column
6 we have listed the amounts of money requested that comes
7 to a total of \$517,197.

8 Table 4 is a listing of existing contracts which
9 could be augmented by up to 30 percent to absorb some of
10 those funds. The environmental services contract and the
11 civil engineering incentives deal with the lightweight
12 fill projects the Board is carrying on. The northern
13 California and Los Angeles County RAC centers I think are
14 self-evident. The last two, the Norcal -- or the next
15 two, Norcal and Sukut, are the remediation contracts.

16 The Norcal contract, which is currently funded
17 at over \$3 million, because they are dealing with the
18 Westley site, can receive further augmentation above and
19 beyond the 30 percent level. The Sukut is the one that
20 was just awarded in May at the \$2.3 million level and
21 would be available for augmentation by 30 percent to the
22 \$700,000 additional level. The last one is augmenting
23 our contract with the California Conservation Corps to
24 provide educational outreach to schools for up to
25 \$100,000.

1 One of the items we had discussed briefly during
2 our briefings of the board meeting was possibly
3 augmenting the California Highway Patrol contract. Once
4 we got further information detailing expenses, we are
5 fully funded for those activities and do not need an
6 augmentation at this time.

7 So at this point if there are any questions
8 about any of the activities proposed or the Board's
9 direction.

10 CHAIR MOULTON-PATTERSON: Thank you,
11 Ms. Gildart. Any questions?

12 BOARD MEMBER JONES: Madam Chair.

13 CHAIR MOULTON-PATTERSON: Mr. Jones.

14 BOARD MEMBER JONES: In my briefing we talked
15 about a project that we're trying to do with Caltrans on
16 the 880. I forget what the exchange is.

17 MS. GILDART: Dixon Landing interchange.

18 BOARD MEMBER JONES: Dixon Landing interchange
19 where they had -- I don't know if any of the Board
20 Members remember a couple months ago they consented to
21 using lightweight fill in this project and we needed to
22 be able to get lightweight fill to them on a pretty time
23 demand-type basis.

24 It would seem to me that we've still got an
25 awful lot of tires at Westley that need to be shredded

1 that are still a potential fire hazard because I figure
2 every tire in a pile, whether it's permitted or not
3 permitted, is a potential for a tire fire.

4 It would seem to make sense if we need to come
5 up with a huge amount of tires to provide a stockpile for
6 the 880 interchange that we use dollars in this contract
7 and augment the Norcal contract to shred up those waste
8 tires at Westley and use those as to our -- as to help
9 augment that demand for tires. Even all the tires at
10 Westley would not be able to fulfill what we need in 880,
11 but rather than spending big dollars to haul this away,
12 use it as either ADC or disposal, why not stockpile it
13 and use it as fill material lessening the demand, that
14 when we get ready to do that project and therefore
15 leveraging our dollars and what I think makes a lot of
16 sense.

17 Those are my thoughts. I want to hear if
18 anybody else has thoughts because that's how I'm going to
19 propose this money.

20 BOARD MEMBER EATON: I think perhaps that that's
21 a good portion of it, but we should look at some of the
22 other projects that may be there. For instance, some of
23 those cities in Table 3 that may not have participated to
24 get a little more exposure. How much money were you
25 thinking, Mr. Jones, for the Norcal contract?

1 BOARD MEMBER JONES: I didn't know. I'll hear
2 what you want to add to that.

3 BOARD MEMBER EATON: I was just thinking in a
4 situation wherein you have the City of Avenal which came
5 to speak to us in the central valley, they were on a
6 compliance order. They've done their fair share. It's a
7 way to get into the central valley. That may be taking
8 some of it.

9 One of the other projects, and I don't know
10 whether it be the City of Southgate or one of the
11 others -- I'm not sure landfill roads would be a good
12 thing -- and just taking one or two of those projects and
13 combining with your Norcal and that would eat the
14 five-something, whatever it might be, just to get a
15 little sprinkling of it to help ease the burden from
16 those who either misread the direction and/or didn't
17 follow the directions in the previous item -- that's why
18 they show up in this item -- and kind of maybe put
19 \$300,000 towards Norcal or whatever you think is
20 appropriate and doing one or two of the others.

21 BOARD MEMBER JONES: I would have no problem
22 with doing the City of Southgate and Avenal.

23 BOARD MEMBER EATON: Okay.

24 BOARD MEMBER JONES: And then -- but then let's
25 do this. Let's say -- what's that? \$235,000.

1 BOARD MEMBER EATON: The \$235,000 and whatever
2 the remainder would be. I think it's \$517,000. I
3 haven't added it up yet.

4 BOARD MEMBER JONES: Why don't we say not to
5 exceed \$600,000.

6 BOARD MEMBER EATON: Fine with me.

7 BOARD MEMBER JONES: Then any sweeps of monies
8 that are left over can go into that Norcal contract.

9 BOARD MEMBER EATON: Just the remainder can go
10 into Norcal.

11 BOARD MEMBER JONES: I don't know what the other
12 Board Members --

13 CHAIR MOULTON-PATTERSON: Any comments before
14 Mr. Jones or Mr. Eaton makes a motion?

15 BOARD MEMBER PAPARIAN: Since we're picking and
16 choosing from amongst these various localities, how is
17 Southgate doing in terms of their 939 goals?

18 CHAIR MOULTON-PATTERSON: Do we have some
19 members --

20 BOARD MEMBER JONES: Schiavo is back there.

21 CHAIR MOULTON-PATTERSON: Staff, Mr. Schiavo, do
22 you have that at the tip of your fingers?

23 MR. SCHIAVO: I missed the question.

24 CHAIR MOULTON-PATTERSON: Mr. Paparian had asked
25 how the City of Southgate was doing on their 939 goals.

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1 Do you happen to know?

2 BOARD MEMBER PAPARIAN: We have four localities
3 and a campus.

4 MR. SCHIAVO: I could get that for you real
5 quick. Do you want me to go up and grab it?

6 BOARD MEMBER PAPARIAN: Yeah.

7 MS. GILDART: In the meantime I could complicate
8 the situation further. The Norcal contract has received
9 what they're calling an abatement from the insurance
10 payments of \$850,000, I believe, of which \$600,000 is --
11 roughly \$600,000 remains. And staff estimates that that
12 would cover the cost of shredding and hauling for
13 disposal the oversized tires that we're currently trying
14 to remediate. If there were additional costs involved
15 with storage or stockpiling to use in the I-880 project,
16 then maybe additional funds are available. But we don't
17 really have an exact figure for that effort, that
18 increased cost.

19 BOARD MEMBER JONES: Okay. Wait. Are you
20 telling me that the number here, that Norcal might not --
21 that the State might not be able to use Norcal if we
22 augment this by \$300,000 to get tires shredded?

23 MS. GILDART: We can use Norcal, we just don't
24 know if \$300,000 is in excess of what would be needed to
25 pay for storage, let's say, if that were necessary.

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1 BOARD MEMBER JONES: Storage of the shreds --

2 MS. GILDART: But existing monies --

3 BOARD MEMBER JONES: -- but that would be
4 managed under that contract; right?

5 MS. GILDART: The existing monies should
6 shred -- yeah.

7 BOARD MEMBER JONES: Okay.

8 MS. GILDART: What's there. There's probably an
9 additional cost, but we don't know what it is. I would
10 think the \$300,000 is probably more than is absolutely
11 necessary. It might be say a safe cushion.

12 If you were concerned that the full \$571,000 was
13 needed. I was just trying to put before you that the
14 actual increase needed is less than that.

15 BOARD MEMBER JONES: Okay. And we're waiting
16 for Mr. Schiavo.

17 CHAIR MOULTON-PATTERSON: Yes.

18 MR. CHANDLER: Mark, do you think that we have
19 enough -- Martha, are you implying that we have enough
20 tires as well to complete that project?

21 MS. GILDART: No. The tires remaining at the
22 Filbin site would not be sufficient to complete the I-880
23 project. However, that's what the civil engineering
24 incentives contract would do is to purchase on the open

25 market whatever additional shreds would be necessary.

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1 They're roughly \$20 a ton, so there should be plenty of
2 money.

3 What we're trying to see is if the cost of
4 needing to store those tires between now and perhaps next
5 May, when the construction is underway, would increase
6 that cost above what market cost would be. If we have to
7 shred, haul and dispose the Filbin tires and then buy on
8 the market the shreds for the project, that gives us a
9 total amount of money available. And to shred, haul,
10 store and then haul again the shreds from Filbin for the
11 I-880 may be a slightly higher amount and that's what
12 we're -- we just don't have that number yet. But because
13 we have \$600,000, roughly \$600,000 left in the Norcal
14 contract, that should cover the first part of that.

15 MR. CHANDLER: I just want to make sure you
16 didn't leave the impression with anybody that we somehow
17 had felt that we had done a calculation to determine that
18 there was sufficient number of tires to complete the 880
19 effort at the site because it was my understanding we
20 didn't.

21 MS. GILDART: That is estimated to take about
22 800,000 to 900,000 tires and we probably have somewhat
23 less than that on Filbin, but not all of them will be

24 appropriate for that kind of shredding and handling. So
25 by the time they're trammed to process out the pieces

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1 that just won't work, it will be less. It may be
2 two-thirds of what we need for the I-880.

3 MR. CHANDLER: Okay. Thank you.

4 CHAIR MOULTON-PATTERSON: Thank you.

5 BOARD MEMBER JONES: I think we're finding out
6 about Southgate.

7 CHAIR MOULTON-PATTERSON: Great. Thank you.

8 MS. MORGAN: It's 42 percent, the Board-approved
9 98.

10 CHAIR MOULTON-PATTERSON: Okay. So 42 percent.

11 BOARD MEMBER JONES: Madam Chair.

12 BOARD MEMBER PAPARIAN: Decent number. I have
13 no problem.

14 CHAIR MOULTON-PATTERSON: Thank you. Mr. Jones.

15 BOARD MEMBER JONES: Madam Chair, I would like
16 to move that we reallocate dollars to fund \$100,000 in
17 rubberized asphalt concrete for projects in the City of
18 Southgate; \$135,000 to the City of Avenal; and rather
19 than just do the math, I'm going to say and then a figure
20 not to exceed about \$450,000 -- and the reason I say it
21 that way is if there's some unallocated dollars in tires,
22 they can throw it in the Norcal contract, if somebody

23 found an extra \$10,000 that didn't get used -- to the
24 Norcal contract for the cleanup of the Westley site.

25 BOARD MEMBER EATON: And I'll second that based

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1 upon the fact that we're trying to encourage some of
2 those other cities to utilize that and that would be the
3 criteria. So I'll second.

4 CHAIR MOULTON-PATTERSON: Okay. Thank you.

5 Moved by Mr. Jones, seconded by Mr. Eaton,
6 approval of Resolution 2000-309 with the changes.
7 \$100,000 for Southgate, \$135,000 for Avenal, and a figure
8 not to exceed \$450,000 for Norcal; is that correct?

9 BOARD MEMBER JONES: For the cleanup of Westley.

10 CHAIR MOULTON-PATTERSON: For the cleanup of
11 Westley.

12 Secretary, would you call the roll please.

13 BOARD SECRETARY: Eaton.

14 BOARD MEMBER EATON: Aye.

15 BOARD SECRETARY: Jones.

16 BOARD MEMBER JONES: Aye.

17 BOARD SECRETARY: Medina.

18 BOARD MEMBER MEDINA: Aye.

19 BOARD SECRETARY: Paparian.

20 BOARD MEMBER PAPARIAN: Aye.

21 BOARD SECRETARY: Roberti.
22 Moulton-Patterson.
23 CHAIR MOULTON-PATTERSON: Aye.
24 We'll leave the roll open on that one also.
25 Thank you, Ms. Gildart.

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1 Mr. Leary.
2 MR. LEARY: Agenda Item 13 is the oral
3 discussion and presentation of the results of the
4 monofill tire workshops and I will once again turn it
5 over to Martha.
6 MS. GILDART: I'm going to give a little more
7 background here as we have some Board Members who have
8 joined us since the whole saga of the monofill
9 regulations had started.
10 The technical standards for the monofilling of
11 waste tires were first developed as part of a broader
12 revision to the regulations dealing with the tire program
13 back in 1998. We went out for public review and comment
14 and conducted workshops to receive those comments. That
15 overlapped with the development of the AB 117 report,
16 which was a report to the legislature on the Board's
17 program for dealing with tires and what we wanted to see
18 come of the new legislation.
19 Because of that, those regulations dealing with

20 the permit and hauler registration programs were put on
21 hold and we pulled the monofill regulations out with the
22 idea of moving forward with them separately.

23 However, in July the Board -- July of 1999, the
24 Board directed staff to recombine the reg packages and we
25 held two additional workshops to solicit public comment

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1 on the entire package of regulations dealing with the
2 tire program. In October of 1999, staff presented to the
3 Board the proposed language and the Board approved the
4 language and directed staff to move forward into the
5 Office of Administrative Law process for adopting
6 regulations.

7 Due to concerns with some of the proposed
8 financial assurance mechanisms, that package of
9 regulations has been on hold for a while. In the
10 meantime, there have been many concerns raised about the
11 monofilling of tires, in particular a facility, the
12 California Asbestos Monofill wishing to receive a permit
13 to continue monofilling tires.

14 So staff brought to the Board in February 2000
15 another agenda item proposing to move our technical
16 standards for the monofilling of tires into the solid
17 waste facility permit regulations as a way of addressing
18 concerns of public health safety and the environment and

19 also making it possible for an operation to comply with
20 the requirements and receive a permit.

21 At that meeting the Board directed staff to hold
22 two additional workshops with the effected industry and
23 public and return to the Board with specific
24 recommendations from the industry on the economic impacts
25 of requiring monofilling of tires, either in larger

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1 operations or in smaller landfills if they reached a
2 certain threshold, and to examine the possibility of
3 mining those tires in the future for recovery.

4 The staff held two workshops. We had one in
5 March and there were 35 or 40 people who attended and a
6 second one just in the last week. We had about 15 people
7 there. I would like to present the results as staff has
8 seen them coming from those meetings.

9 The first conclusion was that there was no
10 reasonable likelihood that tires would be mined from the
11 new landfill. The reasons dealt with the economics of
12 trying to recover those tires after they have been placed
13 in a landfill and covered. And secondly, both the
14 facilities that are currently in operation and are trying
15 to get permitted are mine reclamation operations. That
16 means they're filling in an existing hole in the ground
17 and they're not going to want to dig things up and put

18 something back in its place. So the sense we got from
19 the attendees of the workshop was that mining was not a
20 likelihood.

21 The second issue was that no one really in the
22 industry, none of the landfill operators, had any
23 existing data on the economic impacts of requiring
24 monofill at their landfills. We had discussions about
25 whether or not there should be a threshold level, if you

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1 had a certain percent of your incoming waste or certain
2 number of thousands of tires a month, should these be set
3 aside and put into a monofill cell, no one had any
4 specific data. They all had opinions. For the most part
5 they felt it was unnecessary, that there was nothing
6 broken, why fix it.

7 So the proposal that came out of these workshops
8 that seemed to please the most attendees was the idea of
9 splitting this process into two different phases.

10 The first phase would be to move forward with
11 putting the technical standards, as already approved by
12 the Board, into the solid waste facility permit
13 regulations and develop any additional language to sort
14 of couch those in the appropriate terms. It would be
15 part of a full solid waste facilities permit but not all
16 the conditions would apply. We had a meeting of a small

17 work group last Thursday to look at which of those
18 different segments in Title 27 would fit and I think have
19 a pretty good indication of what we would have to do to
20 create that package and come back to the Board with
21 specific regulatory language.

22 The second phase would be to actually conduct a
23 study to try and see if we can develop data on what the
24 costs would be, is there really a threshold level at
25 which tires coming into a municipal solid waste landfill

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1 should be monofilled, and that would be a longer-term
2 study to determine if there is such a cutoff.

3 I'm sure there's some members in the audience
4 who have come to the workshops who would like to comment
5 on this item, but at this point I'm open to questions.

6 CHAIR MOULTON-PATTERSON: Thank you.

7 Do we have any questions before we begin with
8 the speakers?

9 Mr. Bob Miller.

10 MR. MILLER: I was hoping to be last.

11 CHAIR MOULTON-PATTERSON: Would you like to be?

12 MR. MILLER: As I watch the internet, I see
13 Ms. Patterson and the new Member Medina are supposed to
14 be representing the public at large and then we're
15 supposed to have a new member representing the

16 environment, a member from the legislature and one from
17 the senate.

18 I -- we've been here many, many times and we've
19 gotten the cold shoulder and all and we don't seem to get
20 our point across. It has specifically to do with the CAM
21 facility. I have talked with Mr. Marion Sanginetti
22 (phonetic), a major property owner adjacent to this
23 facility. He has 3,000 acres and he's authorized me to
24 speak and say that he is in appraisal of that property
25 for sale. So the outcome of this CAM facility definitely

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1 affects the appraisal value.

2 He also has an easement allowing the
3 transporting of waste -- I think the word is asbestos --
4 from the site to the market and also recovering asbestos
5 waste. To his knowledge, there is no provision in here
6 for waste tires. He's pursuing that.

7 I have also a letter of support from the
8 Copperopolis Copper Cove Homeowners' Association
9 representing 1600 members in support of my concerns
10 regarding the safety aspects of this facility.

11 Newspaper article this last week points out that
12 the landfill over here at Aldamont Pass falls under the
13 category of the Regional Water Quality Control Board. We
14 have the same situation. This facility is right adjacent

15 to Lake Tullack. It is deeper than Lake Tullack, and if
16 there is a fire, and I've been told that is highly
17 impossible but what is impossible, ash could rise,
18 condense and get into our water supply. That is Lake
19 Tullack that supplies water down to the city of Stockton,
20 large user there.

21 In all my conversation it keeps going around and
22 around and around. No one person takes full
23 responsibility. We can't seem to pinpoint any one
24 agency. I have a letter to back that up.

25 In the new Senate Bill 2042, Cal/EPA is being

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1 hung for -- I say hung -- being completely in charge of
2 water quality control, air quality control, integrated
3 waste management and toxic chemical for a disaster plan.
4 There's no money in there for prevention. I think
5 prevention is higher in this necessity than disaster
6 relief. We don't have a true fire prevention program
7 that is acceptable to the waste tire.

8 In the document that was sent to me that says
9 that the government is going to require shredded tires to
10 be buried in a monofill, the word shredded tires got
11 changed in your document to include shredded, bailed and
12 altered tires. This is just one of the little examples
13 of how one word gets transposed around and around. If it

14 gets cast in concrete, that's what we're going to see up
15 there.

16 The local Modesto Bee, County wants tire answers
17 on tire Modesto fire down there. I met with the
18 Patterson Group. They are going through exactly the same
19 thing we are, trying to get answers. I cannot divulge
20 much more on that because I've given testimony to the
21 Stanislaus Grand Jury, so I have my foot in my mouth.

22 Our local fire department, volunteer, basically
23 has three or four paid firemen and they get from this
24 facility approximately \$200 a year. Now this last year
25 this Board authorized the transfer of one million tires

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1 from Merced County through our town and up and deposited
2 in this facility.

3 The regulations that is in the system today
4 regarding fire prevention is almost a joke. Under the
5 memorandum of understanding you approved Appendix A, dust
6 control, noise control, personnel health and safety,
7 sanitary facilities, training, and fire fighting
8 equipment, housekeeping, lighting, operation equipment,
9 site attendant, traffic control, water supply. Under
10 water supply, something like a thousand gallons a minute
11 for 55 minutes is all we've got up there. To say that we
12 don't use that, but when you brought in the people from

13 Texas they used large quantities of water to put out the
14 fire.

15 The concerns I have is that I think you should
16 stop and reorganize and regroup the troops. I don't
17 think you should move ahead until this whole situation
18 can be at a local level and listen to our concerns. The
19 EPA Standard U.S. Code Title 42, Chapter 82 says that --
20 and I plugged this in so I could be wrong. I plugged in
21 hazardous material and I plugged in tires and I come up
22 with small town environmental planning task force.

23 Grants for discarded tire disposal, resource
24 recovery and conservation panel, mining and other special
25 waste permit for treatment, storage and disposal of

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1 hazardous waste, there's a question is the tire a
2 hazardous waste. I say it is. When it is ignited toxic
3 chemicals come off of it. It's corrosive. So I do
4 believe that it falls into that category.

5 Special communities. I just feel that the local
6 community is not being heard and I urge you to come to
7 our community and listen and look at this facility. Two
8 more members of my committee are here. I turn the floor
9 over to them.

10 Thank you.

11 CHAIR MOULTON-PATTERSON: Thank you, Mr. Miller.

12 Mr. Terry Clapham or Ms. I'm not sure.

13 MR. CLAPHAM: Madam Chairman, Members of the
14 Board, I thank you very much for an opportunity for
15 speaking. I'm Terry Clapham and I represent the
16 Blackjack Bluff Homeowners Association on Lake Tullack.

17 And as Bob had mentioned and Mr. Jones also
18 mentioned, when you have tires together in one place, you
19 have the opportunity for fire. We all know about the
20 fires that have happened. I don't know that anyone -- I
21 mean can say with any absolute certainty there will or
22 will not be a fire at that facility.

23 We are concerned with the moving forward on the
24 regulations that there be adequate provisions for
25 studies, safety studies before permits are granted, and

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1 to make sure that there's adequate emergency planning,
2 adequate training, fire prevention, fire equipment and
3 personnel in the untoward event that there was a fire at
4 that facility and we do not feel at this point that the
5 proposed regulations adequately cover those situations.

6 It is immediately adjacent to a drinking water
7 reservoir and we certainly do have some concerns in the
8 event of a fire from both gas issues and leachate
9 contamination of that drinking water supply.

10 So we would urge that the Board take into

11 consideration the possibility of doing additional work on
12 the document before that is put out for public comment.

13 Thank you very much.

14 CHAIR MOULTON-PATTERSON: Thank you,
15 Mr. Clapham. Sheldon Toso.

16 MR. TOSO: Hi there. My name is Sheldon Toso
17 and I represent or I'm the property manager for Poker
18 Flat Property Owners Association. We're a private
19 community on Lake Tullack and we have a membership of
20 594.

21 Martha and her staff have worked very hard to
22 get to this point. We know that. We hate to be the
23 thorn in her side or the hot spot in her tire pile, but
24 we have attended the workshops and we have yet to get our
25 questions and issues addressed. We seem to be and we're

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1 told we're in the wrong place at the wrong time.

2 We have said in the past we are not opposed to
3 the tire monofill in Copperopolis. What we are opposed
4 to is this lack of concern for our health and safety.
5 Case in point, with these are proposed regs that are
6 going through right now, the waste tire regs paragraph
7 17351. For 500 or more tires your requirement is one dry
8 fire extinguisher, one water fire extinguisher, one pole
9 ten foot in length, a round shovel, a square shovel, and

10 if you drove to the site you have to have a fire
11 extinguisher in your vehicle and you need some water. If
12 you have 10,000 tires, you're going to need a lot more
13 water according to the regulations.

14 From past history we know that the Board will
15 spend millions on putting a fire out, case in point
16 Westley, but it just astounds us that we're only willing
17 to spend a few hundred dollars for fire prevention.

18 This Board has the power. I think this Board
19 had the power more so than anyone else to prevent the
20 fire at Westley. You had the power to remove the tires.
21 You had the power to bury the tires. It seems to us that
22 the Board is at bat with two strikes against you, Westley
23 and Tracy.

24 We don't want to be -- we don't want to you
25 strike out in Copperopolis. We don't want to be the next

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1 fire disaster. We don't want to be the next cloud of
2 smoke. We don't want you to put us on the map.

3 Both the CAM facility and the citizens of Poker
4 Flat are willing to work together in a public workshop to
5 address the questions and issues. We have talked with
6 them. We're willing to do that. We can't seem to do
7 that here, though.

8 Please give us the opportunity to work with the

9 CAM facility, the LEA, the state and local fire
10 departments, and with your staff. Please help our
11 community.

12 Thank you for your time.

13 CHAIR MOULTON-PATTERSON: Thank you very much.

14 Mr. Evan Edgar.

15 MR. EDGAR: Madam Chair, Board Members, my name
16 is Evan Edgar, Edgar and Associates, on behalf of the
17 California Refuse Removal Council.

18 I represent the private independent landfills of
19 California. We don't really commingle tires for
20 disposal. We just kind of manage them in small piles,
21 store them and then we ship them off. We're not into
22 codisposal or into monofilling at all, but I see this
23 issue bigger than CAM.

24 Today we hear a lot about CAM, but this has
25 statewide impacts with a potential to monofill statewide

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1 and the potential to monofill at existing facilities as
2 well as a (inaudible) value. That's why I'm supporting
3 the phased approach put out by staff at the stakeholders
4 meeting that we should bifurcate the issue.

5 Phase one should look at the existing tire
6 monofill regs that we've been working on for years, move
7 those forward under Title 27. We need a full permit with

8 all the protection needed under the full permit and
9 expound upon the fire protection measures. I believe
10 that would be very feasible. We've been working on it
11 for a long time.

12 I believe that the other issues associated with
13 the phase two, with the threshold metals, the banning or
14 phasing out of tires commingled at landfills, that's a
15 much bigger issue that takes more time, more science,
16 more understanding. I would hate to keep on delaying the
17 opportunity to have a phase one Title 27 package for
18 monofilling while we keep on looking at the other aspects
19 of banning and threshold values.

20 I think what everybody is waiting for is moving
21 beyond the informal workshops. We've been discussing
22 this informally for a lot of years and a lot of people
23 are in the wrong places at the wrong time because it's
24 never official.

25 Once we enter the OAL process where we have

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1 official public making process where we can have official
2 testimony with official understanding, we have the right
3 people in the right place at the right time, I believe
4 that the people here today will be able to appreciate the
5 phase one approach under Title 27 to get a full permit
6 for the monofilling of tires in California.

7 So I'm here today to support the outcome of the
8 stakeholders meeting. It was a lot of good work. We sat
9 down and went through Title 27 and found that we could
10 make it better for monofilling tires with a full permit.
11 There are things we can do better, and in this official
12 OAL process forthcoming. We would like to do that
13 officially.

14 Thank you.

15 CHAIR MOULTON-PATTERSON: Thank you, Mr. Edgar.
16 Mr. Chuck White.

17 MR. WHITE: Madam Chair, Members of the Board,
18 Chuck White with Waste Management.

19 Like Evan, we also support the phased approach
20 that staff has laid out. The proposed monofill
21 regulations have been in a various state of informal
22 development. We think it's appropriate to get these
23 regulations finalized and address the concerns. For
24 example, the community group is here today. Make sure
25 they feel comfortable that there is adequate fire

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1 protection, for example. The best way to do that would
2 be to move those regulations forward.

3 And then the other issues related to other
4 facilities that take various proportions of tires, that
5 should be held off for a later phase and focus on what we

6 do have before us in a relatively complete but not
7 finished fashion in the form of the tire monofill regs.

8 So thank you very much and thank you for the
9 opportunity to comment.

10 CHAIR MOULTON-PATTERSON: Thank you.

11 BOARD MEMBER PAPARIAN: Mr. White, the facility
12 at Copperopolis is a Waste Management facility?

13 MR. WHITE: That's correct.

14 BOARD MEMBER PAPARIAN: The people who spoke to
15 us were passionate and committed.

16 MR. WHITE: Absolutely.

17 BOARD MEMBER PAPARIAN: And not your typical
18 Sierra Club members, I don't think.

19 (Laughter)

20 BOARD MEMBER PAPARIAN: I would suggest to you
21 that you've got some issues and concerns down there that
22 need to be seriously dealt with.

23 MR. WHITE: We're very much fully aware of that.
24 We do want to get the facility permitted. We want to
25 work closely with the community. Part of the problem, I

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1 believe, is that Waste Management acquired the facility
2 as part of our merger with USA Waste. We went through
3 about a year downtime when we were trying to evaluate

4 what is the future of this facility, and unfortunately
5 during that period of time we didn't have much
6 communication with the community and I think the
7 community around there was really wondering well, what in
8 the world does this big corporation have in mind for this
9 facility and us. And we were remiss in not being
10 communicative enough.

11 We are interested in getting this facility
12 permitted. We view it as an asset. It's a mine
13 reclamation project that we're looking at primarily
14 seeing how we can return this former asbestos mining
15 operation into a much more compatible neighbor with the
16 community. We believe the tires can play and contribute
17 a role in that if it's done securely and safely and in
18 accordance with whatever standard this Board believes is
19 appropriate, and we haven't communicated that
20 appropriately.

21 We need to sit down. We fully intend through
22 the permitting process that we're trying to get restarted
23 and under way again for the permitting of this facility
24 to really have a focused effort with the community to
25 determine what their concerns are, see if we can

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1 adequately address them and work together as a team
2 because I think both Waste Management and the community

3 have a lot to potentially gain from transitioning this
4 from basically an asbestos monofill to hopefully a
5 project that will have good benefits for the community
6 and for society as a whole in California to manage waste
7 tires.

8 BOARD MEMBER PAPARIAN: I know almost nothing
9 about the proposal. I'll be looking into it. Again, I
10 would encourage some work with the local community.

11 MR. WHITE: We hear you loud and clear. We
12 believe that's absolutely critical for this project to
13 move forward, but also we would like to see the Board
14 moving to a process of finalizing the standards for this
15 kind of facility which has been in the works for also a
16 period of time, and we'd like to get those finalized, get
17 the permit finalized, work with the community, work with
18 the Board in a cooperative fashion so we can have the
19 best possible project at this location.

20 CHAIR MOULTON-PATTERSON: Thank you, Mr. White.
21 Any other questions or comments on -- Mr. Miller.

22 MR. MILLER: Mark brought up a good point about
23 the mining of the tires. I was wondering whether or not
24 anyone had ever given any thought to buying these
25 overseas containers, modifying them with a heat sensor,

1 CO2 bottle or halon, and load those tires at the source,
2 shred them, pack them, and then you have an environmental
3 chamber. You then could move this environmental chamber
4 anywhere you want. It would be safe. Railroad cars have
5 a computer chip on the top to monitor them, and whenever
6 it was ready to be recycled, you send over a truck, pick
7 it up, send it to recycle. If you wanted to bury it, you
8 could bury it. If you wanted to send it out on the
9 desert, this would be an ongoing-type arrangement. I
10 think that would be worthy of some consideration.

11 CHAIR MOULTON-PATTERSON: Thank you for your
12 suggestion.

13 Any other comments from the Board Members or
14 questions on Item 13?

15 BOARD MEMBER JONES: I'm just wondering what
16 staff is looking for -- I know this is an oral
17 presentation but what does the landscape look like?
18 What's the plan?

19 MR. LEARY: The landscape actually, Mr. Jones,
20 is pretty simple. What we would like is concurrence with
21 our line of thinking in terms of bifurcating our approach
22 here. With your blessing of our approach, we would bring
23 back to you next month the actual regulations to move
24 into the formal OAL public rulemaking process and move it
25 forward that way and separately create the study group to

1 work further with the industry to define the threshold,
2 as Martha discussed in her presentation, that defines at
3 what threshold does a quantity of tires in a municipal
4 solid waste landfill constitute a possible fire threat
5 and consideration for monofilling.

6 BOARD MEMBER JONES: That's your other piece,
7 that commingled stuff.

8 MR. LEARY: That's the further research effort.

9 BOARD MEMBER JONES: All right.

10 MR. LEARY: So what we're looking for is just
11 concurrence with our thinking about bifurcating it this
12 way, and with that blessing we'll come back before you
13 next month with actual -- seeking actual approval of the
14 regs as proposed.

15 BOARD MEMBER JONES: For 45 days.

16 MR. LEARY: For the movement to the OAL process
17 which would kick off the 45-day process.

18 BOARD MEMBER JONES: Can I ask one other
19 question? Has thought been given to -- we always have
20 public meetings on these. We always have public
21 workshops on reg packages. Has anybody given thought to
22 having one close to Tullack? It's a pretty nice area up
23 there. One of the things -- one of the reasons I bring
24 this up --

25 MR. LEARY: Are you volunteering?

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1 BOARD MEMBER JONES: I used to be in Sonora. I
2 used to go down there all the time. I actually had a
3 couple good hide-outs up there.

4 The -- one of the things I think that's
5 important, and when you listen to the public talk about
6 this stuff, as well as a lot of other people, I think
7 it's important that we talk about those standards, we
8 talk about what has historically ignited shreds of tire
9 piles, what are we going to do in our regulations to
10 mitigate that, what are the things -- what are the
11 operating standards going to be and then hear from them
12 at the same time as to, you know, what are their
13 overarching concerns.

14 It's real obvious that you can't -- maybe you
15 can't please everybody all the time, but it would seem to
16 me in this case, since we've only got two monofills in
17 the state right now basically, that we ought to do
18 everything we can as part of the educational process to
19 make -- to avail these folks the opportunity to have
20 comments and then we've got to be there.

21 We need to be sitting there, hearing these
22 comments and then talk -- because I think the standards,
23 I think people, especially the folks in the audience,
24 need to realize these are going into regs because this
25 Board did not allow for a regular solid waste facility

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1 permit at this facility, originally, until we found out
2 what the standards needed to be to manage this facility
3 and all we could do was use best practices. That's why
4 they hired Dana Humphrey. That's why I think USA
5 worked -- hired Geosyntech and other people who had that
6 base of knowledge of what had caused other fires so we
7 didn't develop a reg package that really promulgated the
8 problem.

9 I think that it would be important to try to do
10 that, whether it be a second workshop or whatever,
11 because education and input is going to be real important
12 to this --

13 BOARD MEMBER PAPARIAN: Madam Chair.

14 BOARD MEMBER JONES: -- solution.

15 CHAIR MOULTON-PATTERSON: Thank you, Mr. Jones.
16 Senator Roberti.

17 BOARD MEMBER ROBERTI: When I first came on the
18 Board, I forget who briefed me, one of the many tire
19 briefings, and the observation of the person who was
20 briefing me was an expert in the area -- I can't remember
21 who it was though -- was that well, his presumption is
22 that almost all tire cells in landfills somewhere are on
23 fire, maybe deep down, but we certainly don't know.

24 So what I would like, when you come back to us,

25 is to sort of give us some information as best as you

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1 can, if it's possible, as to what is the current status
2 of internal combustion at the various landfills that we
3 have right now and what is the prognosis for further
4 types of internal combustion because if that's the case
5 or if that is something that is very much a possibility
6 of being the case, then this Board should give
7 consideration to some things that have been sort of
8 verboten and that is like burn them before they burn on
9 their own. And I think that's all part of the kinds of
10 regulations that we come up with.

11 I'm just relaying what was told to me and I
12 don't think it's going to ever totally dispute it because
13 I think it's going to be very, very -- as you probably
14 know more than I, it's probably going to be very, very
15 difficult to come up with any conclusive information as
16 to what the status of combustibility on tires already
17 buried in California's landfills happens to be.

18 MR. LEARY: Senator, you've hit the nail right
19 on the head and that's what we came up against. A lot of
20 the information out there is anecdotal. It's almost
21 folkloric, but actually turning that folklore, that
22 legend about tires and landfills into meaningful
23 regulations is what we're up against and that's why we're

24 suggesting that we move forward, take a little more time,
25 try to get data, to the extent it exists, and continue to

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1 work with the industry who we feel will have the most
2 basis for that information and develop this threshold for
3 mixing tires and MSW.

4 I've never heard before the idea that all tires
5 are potentially burning underground, but there is quite a
6 bit of myth around and folklore. Myth, I don't mean to
7 imply that it's untrue, but it's anecdotal and that's
8 what we're trying to get our arms around in developing

9 meaningful regs for your consideration. That's separate
10 and apart from our proposal to get these standards in
11 place as quickly as possible so that facilities, as
12 they're coming online, whether it be CAM or anywhere
13 else, have a meaningful set of standards to go forward
14 with, a background, a foundation to work from.

15 CHAIR MOULTON-PATTERSON: Did you have a
16 comment?

17 BOARD MEMBER PAPARIAN: Just quickly, came off
18 what Senator Roberti just said. I would be interested if
19 we can talk about this, perhaps apart from a board
20 meeting, but what has been the experience outside of
21 California and outside of the country in facilities that

22 have either worked or not worked that may be similar to
23 what we're looking at in California.

24 MR. LEARY: Why don't we come back -- and I
25 misspoke earlier. There's probably no way we could come

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1 back to you in July, but maybe possibly in August come
2 back with not only seeking your approval on these
3 regulations but also come back with a nationwide search
4 about tire fires and tires in landfills and their
5 potential for fire. We've started on some of that
6 effort.

7 CHAIR MOULTON-PATTERSON: Thank you, Mr. Leary,
8 and I think we can give you concurrence, unless I hear
9 otherwise, to move forward.

10 MR. LEARY: Thank you.

11 CHAIR MOULTON-PATTERSON: Thank you very much.

12 Senator Roberti, did you have any ex partes from
13 lunch that you wanted to declare?

14 BOARD MEMBER ROBERTI: No, I didn't have any.

15 CHAIR MOULTON-PATTERSON: And we left the roll
16 open on Items 10, 11 and 12.

17 Secretary, would you go ahead.

18 BOARD SECRETARY: Agenda Item 10, Roberti.

19 BOARD MEMBER ROBERTI: Aye.

20 BOARD SECRETARY: Agenda Item 11, Roberti.

Please note: These transcripts are not individually reviewed and approved for accuracy.

21 BOARD MEMBER ROBERTI: Aye.
22 BOARD SECRETARY: Agenda Item 12, Roberti.
23 BOARD MEMBER ROBERTI: Aye.
24 CHAIR MOULTON-PATTERSON: Thank you.
25 Moving right along to Administration and Policy,

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1 Ms. Jordan, Number 14.
2 MS. JORDAN: Good afternoon, Chair
3 Moulton-Patterson and Members of the Board. Terry
4 Jordan, Administration and Finance Division.
5 Today staff will present agenda Item Number 14,
6 consideration of approval of the California Integrated
7 Waste Management Board's AB 75 Integrated Waste
8 Management Plan.
9 MS. POLO: Good afternoon, Madam Chair and
10 Members of the Board. My name is Rosita Polo of the
11 Business Administration Office and the Board's in-house
12 waste reduction coordinator, and one of my
13 responsibilities was to prepare and develop the Board's
14 Integrated Waste Management Plan due back to the Board by
15 July 15th, as each state agency and large state facility
16 is to do.
17 As mentioned in the briefings, the Board passed
18 the state agency model IWMP for agencies to use in
19 January. Each agency and large state facility is to use

20 the model IWMP to develop a plan that is unique to their
21 facilities.

22 At the May board meeting, the Board adopted
23 their review and approval process of the IWMP. I have
24 used this model, and through coordination with program
25 staff, modified it to incorporate diversion activities

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1 that are specific to the Board.

2 AB 75 sets the following diversion goals of 25
3 percent by 2002 and 50 percent by 2004. As Mr. Chandler
4 previously stated, the Board has exceeded the 2004 goals
5 and we are currently at 69 percent.

6 As you have noticed, the IWMP has been revised
7 to reflect measurements for the office setting only, but
8 program information is still included as part of the plan
9 so others can see how the Board has been able to
10 encompass diversion activities not only in our office
11 settings but on the field and in our projects as well.

12 So staff recommends approving Resolution
13 2000-256, the approval of the Integrated Waste Management
14 Plan -- Management Board's AB 75 Integrated Waste
15 Management Plan.

16 And this completes my item. Any questions?

17 CHAIR MOULTON-PATTERSON: Thank you very much.

18 Any questions?

Please note: These transcripts are not individually reviewed and approved for accuracy.

19 BOARD MEMBER JONES: Madam Chair.
20 CHAIR MOULTON-PATTERSON: Board Member Jones.
21 BOARD MEMBER JONES: I'll move adoption of
22 Resolution 2000-256.
23 BOARD MEMBER MEDINA: Second.
24 CHAIR MOULTON-PATTERSON: Board Member Jones
25 moves approval and Board Member Medina seconded

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1 Resolution 2000-256 for the approval of the California
2 Integrated Waste Management Board's AB 75 Integrated
3 Waste Management Plan.
4 Thank you very much for your report.
5 Secretary, please call the roll. I'm jumping
6 ahead.
7 BOARD SECRETARY: Eaton.
8 BOARD MEMBER EATON: Aye.
9 BOARD SECRETARY: Jones.
10 BOARD MEMBER JONES: Aye.
11 BOARD SECRETARY: Medina.
12 BOARD MEMBER MEDINA: Aye.
13 BOARD SECRETARY: Paparian.
14 BOARD MEMBER PAPARIAN: Aye.
15 BOARD SECRETARY: Roberti.
16 BOARD MEMBER ROBERTI: Aye.
17 BOARD SECRETARY: Moulton-Patterson.

18 CHAIR MOULTON-PATTERSON: Aye.
19 Public outreach and education. We'll go ahead
20 and do this item and then we'll have our afternoon break.
21 MR. PECK: Thank you, Madam Chairman and Board
22 Members. Chris Peck with the Office of Public Affairs.
23 Item 15 requests the Board's approval of the
24 contractor to develop and implement the statewide buy
25 recycle public awareness campaign approved under Contract

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1 Concept 13/14 this fiscal year.
2 The contract has two parts, the buy recycle
3 public awareness campaign and public education
4 subcontracts. The approved contract concept authorized
5 \$600,000 for the campaign and \$150,000 for the
6 sponsorships. In the scope of work, the sponsorships are
7 identified as subcontracts that reinforce the overall
8 objective of the campaign. This is proposed as a
9 two-year contract with an option that allows the Board to
10 fund a paid advertising campaign with future funding.
11 When the Board approved the scope of work in
12 January, it requested future consideration of a possible
13 paid advertising campaign. Task three in the scope of
14 work was subsequently structured to require Board
15 approval of the media strategy prepared by the successful
16 contractor prior to expenditure of any contract funds for

17 paid advertising.

18 The RFP provided that subject to passage of the
19 Governor's budget and approval by the Board of the
20 contractor's media placement strategy, a maximum of
21 \$600,000 may be available from the Board's fiscal year
22 00-01 budget and an additional \$600,000 from the
23 following year's budget.

24 The Board's RFP was advertised in the state
25 contracts register for six weeks and broadly distributed.

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1 Six qualified proposals were received and
2 reviewed by an evaluation committee with representation
3 from the Board's buy recycle program, Office of Local
4 Assistance, Public Affairs Office and the Division of
5 Recycling. The field was narrowed to three finalists who
6 were given an opportunity to make an oral presentation to
7 the evaluation committee, and today we are seeking the
8 Board's approval of Dean and Black Public Relations as
9 the contractor.

10 A comment about the evaluation process. This is
11 what was called a secondary RFP under which cost is not
12 the deciding factor in selecting a contractor. In this
13 process, cost was weighted in the review along with the
14 technical proposal and the oral presentation.

15 Dean and Black received the highest cumulative

16 score in the evaluation committee's review. Dean and
17 Black submitted a cost proposal of \$648,000. That's
18 \$498,000 for the public awareness campaign and \$150,000
19 for the education subcontracts or sponsorships.

20 So we are recommending to the Board approval of
21 the contract for the statewide buy recycle campaign to
22 Dean and Black for an amount not to exceed \$1,848,000.
23 That's \$648,000 from the current budget and the
24 possibility of an additional \$600,000 in each of the two
25 following fiscal years.

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1 Staff is recommending adoption of Resolution
2 2000-311 with modifications to the final whereas which
3 should now read, "Whereas Dean and Black Public Relations
4 received the highest score in the Board's evaluation and
5 selection process and submitted a cost proposal of
6 \$648,000," and also modification to the resolved clause
7 on the back page of the resolution which should read,
8 "Now, therefore, be it resolved that the Board hereby
9 approves Dean and Black Public Relations as the
10 contractor for the statewide buy recycle public awareness
11 campaign (Contract Bid Number IWM-C9053) in an amount not
12 to exceed \$1,848,000."

13 This concludes my presentation. Representatives
14 of Dean and Black are in the audience if you wish to ask

15 any questions.

16 CHAIR MOULTON-PATTERSON: Thank you, Mr. Peck.

17 BOARD MEMBER JONES: Madam Chair.

18 CHAIR MOULTON-PATTERSON: Mr. Jones.

19 BOARD MEMBER JONES: Madam Chair, I've got a
20 real problem with this, not with Dean and Black, not with
21 anything other than this contract.

22 This was a proposal that I actually asked for or
23 pretty much talked to all the Board Members and directed
24 or hoped that they would allow us to do a buy recycle
25 campaign. And I think that as much progress as has been

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1 made in the state of California going from 10 percent to
2 37 percent diversion, the one piece that always has to be
3 put out in front of people is that if you're not buying
4 recycled, you're not recycling. As the state co-chair
5 for America Recycles Day for two years, I spent a lot of
6 time and effort, as did other Board Members, trying to
7 get this done.

8 I was excited about this proposal. My
9 excitement was slashed as quickly as our spending
10 authority of our RMDZ money was slashed without notice to
11 any Board Member or anybody, that we no longer have the
12 authority to take \$4 million out of RMDZ money to promote
13 market development. I can't see spending \$750,000 on a

14 plan that is going to sit in somebody's bookshelf. When
15 we have limited money, we'd better figure out where the
16 heck we're going to spend it to best move markets.

17 This makes me sick. It's an affront to me as a
18 Board Member. I was contacted prior to incredible work
19 by Chairmen Pennington and Eaton to get this money before
20 it ever went -- before that ever came down. Nobody
21 talked to me about the day we lost it and I resent it. I
22 can't see spending a nickel of this money to put it on
23 somebody's shelf.

24 So I'm going to make a motion that we do not put
25 out this contract because if we can do anything dealing

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1 with good government, we'd better deal with that \$750,000
2 that can't be backed up with what's going to give us the
3 bang for the buck.

4 CHAIR MOULTON-PATTERSON: What was your motion,
5 Mr. Jones?

6 BOARD MEMBER JONES: I'm going to make a motion
7 that we do not adopt Resolution 2000-311 because we do
8 not have funds in the out years.

9 CHAIR MOULTON-PATTERSON: I'll second that and
10 open it for discussion.

11 BOARD MEMBER JONES: Madam Chair, also as part
12 of my resolution --

13 CHAIR MOULTON-PATTERSON: Yes.

14 BOARD MEMBER JONES: -- I think that the RMDZ
15 money, the \$200,000 that was part of this, we have
16 spending authority for two years. So I would like that
17 to go back into the pool. IWMA money I think has to
18 basically go back to the IWMA fund. Oil money goes back
19 to the oil fund, which I think is a continuous
20 appropriation, and I think the \$75,000 in tire funds can
21 get captured in that sweep for the cleanup of the Westley
22 tire site.

23 CHAIR MOULTON-PATTERSON: Could you repeat that
24 for me?

25 BOARD MEMBER JONES: \$200,000 RMDZ goes back

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1 into the fund for later appropriation, IWMA's \$350,000
2 goes back to the IWMA fund, \$125,000 for oil goes back to
3 the oil fund, and the \$75,000 in tires gets caught up in
4 that sweep that goes to the cleanup of the Westley tire
5 site.

6 CHAIR MOULTON-PATTERSON: Okay. We have a
7 motion.

8 Was there any discussion by other Board Members?

9 We have a motion on the floor by Mr. Jones,
10 seconded by myself to deny the contract for -- let me
11 know if I'm not phrasing this right -- deny Resolution

12 2000-311, approval of contract to develop and implement
13 the statewide buy recycle public awareness campaign,
14 Contract Concept Number 13/14 with \$200,000 going back to
15 the Recycling Markets Development Zone, \$350,000 going
16 back to the IWMB fund, \$125,000 going back to used oil
17 money and the \$75,000 tire money helping to clean up
18 Westley; is that correct?

19 BOARD MEMBER JONES: Yes.

20 CHAIR MOULTON-PATTERSON: Hearing no further
21 comments, secretary, would you call the roll please.

22 BOARD SECRETARY: Eaton.

23 BOARD MEMBER EATON: No.

24 BOARD SECRETARY: Jones.

25 BOARD MEMBER JONES: Yes.

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1 BOARD SECRETARY: Medina.

2 BOARD MEMBER MEDINA: Yes.

3 BOARD SECRETARY: Paparian.

4 BOARD MEMBER PAPARIAN: Abstain.

5 BOARD SECRETARY: Roberti.

6 BOARD MEMBER ROBERTI: Yes.

7 BOARD SECRETARY: Moulton-Patterson.

8 CHAIR MOULTON-PATTERSON: Yes.

9 Okay. We'll take our afternoon break

10 for fifteen -- let's make it ten minutes and be back at

11 about 4:20.

12 (Recess taken)

13 CHAIR MOULTON-PATTERSON: I'd like to call the
14 meeting back to order.

15 Any ex partes, Mr. Eaton?

16 BOARD MEMBER EATON: None. Thank you.

17 CHAIR MOULTON-PATTERSON: Mr. Jones.

18 BOARD MEMBER JONES: No.

19 CHAIR MOULTON-PATTERSON: I had a meet-and-greet
20 with Mr. John Cupps.

21 Mr. Medina.

22 BOARD MEMBER MEDINA: None.

23 CHAIR MOULTON-PATTERSON: Mr. Paparian.

24 BOARD MEMBER PAPARIAN: Yes. Brief

25 meet-and-greets with John Cupps, George Larson and Terry

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1 Leveille.

2 CHAIR MOULTON-PATTERSON: Thank you. Item 16
3 was on consent, 17 on consent, 18 pulled, so we're on
4 Item Number 19, which was pulled by Mr. Eaton.

5 Mr. Schiavo.

6 MR. SCHIAVO: Sure. Good afternoon, Board
7 Members. Pat Schiavo, Deputy Director of the Diversion,
8 Planning and Local Assistance Division, and I'd like to
9 introduce Chris Schmidle, Supervisor of the Local Office

10 of Assistance, who will be making presentations,
11 actually, for Item Numbers 19, 21 and 22.

12 MR. SCHMIDLE: Madam Chair, Board Members, I'm
13 Chris Schmidle from the Office of Local Assistance.

14 This is agenda Item Number 19, consideration of
15 staff recommendation to change the base year to 1998 and
16 on the adequacy of the previously conditionally approved
17 source reduction and recycling element, consideration of
18 staff recommendation regarding the completion of
19 Compliance Order IWMA BR 99-35, and consideration of
20 staff recommendation on the 1997-1998 biennial review
21 findings for the source reduction and recycling element
22 and household hazardous waste element for the City of
23 South El Monte, Los Angeles County.

24 The City of South El Monte has requested a
25 change in their base year from 1990 to 1998. In March

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1 1997, the Board approved methods for jurisdictions to use
2 for improving the accuracy of their base year generation
3 data. One of the approved methods allowed the
4 jurisdiction to establish a more current base year.

5 To estimate the waste generation in 1998, the
6 City used disposal data from the Board's Disposal
7 Reporting System and collected diversion information
8 based largely on a series of 200 waste reduction and

9 recycling audits. The audits were statistically
10 stratified and the results of the audits were
11 extrapolated within the groups to estimate the total
12 amount of diversion for all businesses served by the
13 City's hauler. 80 percent of the audits were conducted
14 at larger businesses defined by the number of employees
15 and 20 percent of the audits were conducted at smaller
16 businesses.

17 The extrapolation method represents a
18 conservative estimate of diversion for the City's
19 businesses since the method is applied only to businesses
20 served by the City's hauler.

21 The City considers the 1998 data to be more
22 accurate and the best available data. With this new base
23 year, the City's 1998 diversion rate is 63 percent.
24 Attachment two is the affidavit submitted by the City
25 that provides additional details to support the request

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1 for a new base year.

2 Staff has determined that the request has been
3 adequately documented and, therefore, recommends that the
4 request for a new base year be approved.

5 The Board issued a compliance order at the
6 September 21st, 1999 board meeting as a result of the
7 City's 1995/1996 biennial review findings. The

8 compliance order required the City to develop a new waste
9 generation study based on 1998 or other available data,
10 establish a new or more accurate base year, and document
11 its progress in implementing selected programs in meeting
12 diversion requirements at 25 and 50 percent.

13 The staff has reviewed the City's status reports
14 and implementation of their local assistance plan and
15 believe the City has complied with all the requirements
16 in the compliance order.

17 On December 13th, 1995, the Board conditionally
18 approved the City's source reduction and recycling
19 element. The Board required as a condition that the City
20 of South El Monte provide further information describing
21 expansion of existing or additional programs to meet the
22 50 percent mandated goal. Based on documentation the
23 City has provided, the City has addressed the conditions
24 of the Board's full approval of the SRRE and, therefore,
25 staff recommends full approval of the source reduction

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1 and recycling element.

2 Staff also conducted a 1997-1998 biennial review
3 of the City's source reduction and recycling element and
4 household hazardous waste element according to the
5 process described in the October 1997 Board-approved
6 biennial review. The City has reported that it has

7 successfully implemented source reduction and recycling
8 public education and household hazardous waste programs.

9 For this reason, the staff is recommending
10 approval of the City's 1997-98 biennial review findings
11 for source reduction and recycling element and household
12 hazardous waste element.

13 That is the end of my presentation, and
14 representatives of the City are here to answer your
15 questions about the City's data and programs.

16 CHAIR MOULTON-PATTERSON: Thank you,
17 Mr. Schmidle.

18 Before we have our speakers, Mr. Eaton, did you
19 have a question?

20 BOARD MEMBER EATON: I have a couple of
21 questions.

22 CHAIR MOULTON-PATTERSON: Would you like to --

23 BOARD MEMBER EATON: Sure. I think I can ask
24 the staff or I assume that the City may also want to
25 respond at the time.

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1 I want to thank you. I pulled these three items
2 because I think this enters sort of the new frontier, so
3 to speak, of Star Trek numbers that we're looking at as
4 we move around and the latest, I think, in terms of how
5 one reaches diversion goals and I think it's important

6 for us just to have a discussion as how we go from a
7 negative number to a plus 63.

8 I'm very concerned about the fact that source
9 reduction and would like to first find out perhaps how
10 many of the businesses are served by the city haulers.

11 CHAIR MOULTON-PATTERSON: We have Mr. -- did you
12 want that of staff?

13 BOARD MEMBER EATON: No. Staff I think is just
14 approving the numbers. I think they have brought up
15 individuals from the City to speak to that, is my
16 understanding.

17 CHAIR MOULTON-PATTERSON: Right. I have speaker
18 slips from Mr. Gil Lopez of the City of South El Monte
19 and I have a speaker slip from Eugene Tseng available to
20 answer questions.

21 Mr. Lopez, would you like to come forward?

22 MR. LOPEZ: Chair of the Board, Members of the
23 Board. According to the study, about two years ago we
24 received a negative 16 percent, negative 16, and we felt
25 that it was negative because of the reaching out to the

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1 businesses. And since then we've gone to the businesses
2 and this is how we came up obviously with 63 percent.

3 We were -- we did a research and Dr. Eugene
4 assisted us on that program, to assist to the businesses,

5 into the diversion, into the education program, and even
6 now more so we are committed to the City and to the Board
7 as a well to promote this education program and we're
8 involved in the MRF.

9 We're also involved in this WRAP program. We
10 have 21 potential candidates and as of today we have 17
11 completed applications.

12 CHAIR MOULTON-PATTERSON: Thank you. Did you
13 have some more questions, Mr. Eaton?

14 BOARD MEMBER EATON: I think Mr. Tseng wants to
15 make a presentation, I think.

16 MR. TSENG: The question to answer about how
17 many businesses there are in the city.

18 BOARD MEMBER EATON: No. I asked how many of
19 the businesses are served by the city haulers.

20 MR. TSENG: We don't have an exact number of how
21 many the hauler services. It is an exclusive franchise
22 city, so technically all businesses are served by the
23 hauler except for those that self-haul themselves.

24 BOARD MEMBER EATON: So why wouldn't then the
25 diversion rate, if they're served by the city haulers,

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1 they keep track of how much is going to the landfill and
2 not going to the landfill; is that correct?

3 MR. TSENG: Yes.

4 BOARD MEMBER EATON: So why wouldn't that at
5 least give you a representation as to year to year how
6 much was taken to the landfill or how much was diverted
7 from year to year if you have an exclusive contract? You
8 don't need to extrapolate numbers, at least ten times
9 that number.

10 MR. TSENG: We did not extrapolate disposal.
11 The disposal is the actual reported by the Disposal
12 Reporting System.

13 BOARD MEMBER EATON: Right. But that's my
14 point, my problem with your formula.

15 MR. TSENG: We didn't extrapolate disposal.

16 BOARD MEMBER EATON: I understand that, but if
17 you have disposal in one year; correct? With tickets.

18 MR. TSENG: Yes.

19 BOARD MEMBER EATON: And then you have it for
20 the next year; correct?

21 MR. TSENG: Yes.

22 BOARD MEMBER EATON: Wouldn't that give you at
23 least what the City was doing with diversion?

24 MR. TSENG: No. That's only disposal.
25 Diversion we actually measured by the individual

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1 business.

2 BOARD MEMBER EATON: But you're double counting

3 that.

4 MR. TSENG: No because --

5 BOARD MEMBER EATON: Yes, you are. If you have
6 a number --

7 MR. TSENG: For diversion or disposal?

8 BOARD MEMBER EATON: Well, we're talking about
9 disposal right here. If you have a number that they
10 dispose, say a hundred tons one year and you disposed 50
11 tons the next year, would you say they at least had some
12 diversion going on?

13 MR. TSENG: Not necessarily.

14 BOARD MEMBER EATON: Okay. Then what would you
15 say was going on?

16 MR. TSENG: It could be a number of -- it could
17 be any number of things because if the disposal got half,
18 it may be that the business downsized to 50 percent,
19 which a lot of the aerospace companies did.

20 BOARD MEMBER EATON: And the same would go for
21 your formula then with source reduction.

22 MR. TSENG: Not necessarily.

23 BOARD MEMBER EATON: Well, yes, it would.

24 MR. TSENG: Okay.

25 BOARD MEMBER EATON: I want to find out how you

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1 multiplied 10 times the extrapolation to get to 80,000.

2 MR. TSENG: Okay.

3 BOARD MEMBER EATON: And why you base that --
4 what justified the ten-fold extrapolation.

5 MR. TSENG: Okay. If we take -- let's say
6 theoretically there's a hundred businesses and we sampled
7 10 percent of the businesses, and if the 10 percent was
8 statistically representative, that basically is the
9 sample for the hundred and so when we extrapolate it out
10 we would be extrapolating for the hundred businesses.

11 BOARD MEMBER EATON: Are they all the same kind
12 of business?

13 MR. TSENG: No.

14 BOARD MEMBER EATON: So what's the factor that
15 distinguishes the differentiation where I may have one
16 pound for Company A and may have a hundred pounds for
17 Company B?

18 MR. TSENG: That's why there's a requirement, a
19 minimum statistical requirement called statistically
20 representative, and depending upon how many businesses
21 and the kind of businesses you have, you can calculate
22 the minimum number that's required to make it
23 statistically representative. And there's actually a
24 guideline on how to calculate that and that guideline is
25 actually in Title 14, Article 6.1.

1 BOARD MEMBER EATON: Okay. So why aren't you
2 double counting it?

3 MR. TSENG: Because if --

4 BOARD MEMBER EATON: Because if I've already
5 made the adjustment on the disposal side, you're coming
6 back and saying now there's even further reduction on the
7 source reduction side. I don't see it, Eugene.

8 MR. TSENG: I know where we're getting crossed
9 here. It's because when we do a new base year study,
10 we're not comparing it to a former base year. The
11 adjustment method, the way that works is we look at 1990
12 as a base year and we extrapolate by using population,
13 employment, increase in taxable transaction, but that's a
14 comparative analysis using disposal.

15 What we're doing is a complete new base year
16 study where we do not do any comparison. We just go and
17 for that year or for this year, 1998, we say this is how
18 much is disposed, this is how much is diverted, diverted
19 by recycling, diverted by source reduction. It is for
20 that year instantaneous. We're not extrapolating
21 anything from 1990 up to that year. We're doing a
22 complete new base year.

23 BOARD MEMBER EATON: I understand that. So what
24 I'm saying is what justifies the ten-fold extrapolation
25 for the new base year generation?

1 MR. TSENG: The ten-fold is a --

2 BOARD MEMBER EATON: At least according to the
3 figures I have; is that correct? That's correct; isn't
4 it?

5 MR. TSENG: I don't think it's exactly ten-fold.

6 BOARD MEMBER EATON: If it's 8,000 --

7 MR. TSENG: I think 72.

8 BOARD MEMBER EATON: 8,183 and -- all right.
9 Say nine and a half. It goes to 72.

10 MR. TSENG: That number is combined recycling
11 and source reduction, so only about half of that is what
12 you're calling source reduction extrapolation. If you
13 look at the summary --

14 BOARD MEMBER EATON: So you're also
15 extrapolating recycling as well?

16 MR. TSENG: Because if one supermarket is
17 recycling, if the city has two Vons and they both operate
18 the same way, if one Vons is recycling so many tons, the
19 other one is probably doing pretty much the same thing.
20 So that's the way we extrapolate. It depends on the
21 number of samples we have.

22 BOARD MEMBER EATON: And you have -- so in other
23 words, you think -- you don't compare anything with the
24 Vons in terms of their sales receipts or anything like
25 that that would say that maybe one Vons store is doing

1 half a million dollars in business and another Vons store
2 is doing \$5 million worth of business? You just assume
3 that because they're two Vons stores they're doing the
4 same work?

5 MR. TSENG: Actually from Vons we have a letter
6 from the corporate office saying that our average Vons
7 does this many tons of cardboard, this many tons of
8 grease, this many tons of plastic and office paper. We
9 actually have the documentation for supermarkets.

10 BOARD MEMBER EATON: And is that part of your
11 extrapolation?

12 MR. TSENG: Yes, it is. That's the
13 documentation for the extrapolation.

14 BOARD MEMBER EATON: Isn't an extrapolation
15 where you take out what you know, and what you don't know
16 you extrapolate from the actual figures to arrive at the
17 actual number?

18 MR. TSENG: We don't extrapolate disposal but we
19 have to extrapolate diversion because we don't know what
20 all the diversion is. We only get the diversion numbers
21 from our study. We go into the -- we select at random
22 different businesses from the jurisdiction and then we --
23 and these are done randomly, so they are what we call
24 statistically representative. As we go through these
25 businesses, we say this business did this much recycling

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1 and this much source reduction, the next business did
2 this much reduction and this much recycling, and those
3 are random.

4 What happens at the end of the survey, we
5 compile this all this up and say of all the businesses
6 that we picked at random, the average diversion rate is
7 "X" and because this is a statistically representative
8 sample of all the businesses that the haulers service in
9 this jurisdiction, and this is the -- we call that the
10 snapshot in time and this was designed as a tool to
11 basically minimize the cost of trying to figure out what
12 the diversion is and then we develop our program plans
13 from the statistical sample.

14 BOARD MEMBER PAPARIAN: May I ask a quick
15 question?

16 BOARD MEMBER EATON: Sure. Go ahead.

17 BOARD MEMBER PAPARIAN: You randomly chose the
18 businesses.

19 MR. TSENG: Yes.

20 BOARD MEMBER PAPARIAN: And was it voluntary for
21 them to participate in surveying them and so forth?

22 MR. TSENG: Yes. And we had a very, very good
23 participation rate. We averaged actually between 90 and
24 95 percent in South El Monte. Some places we've gotten
25 as high as 95. A lot of times because it's tax time or

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1 end of the year, they'll say come back later or we can't
2 do right now. But basically the participation rate has
3 been very, very high.

4 The obvious benefits to the businesses if we're
5 able to find good diversion practices and implement new
6 programs, they save money. That's their incentive.

7 BOARD MEMBER PAPARIAN: I've got to wonder
8 whether you're getting -- whether they're putting their
9 businesses in the best light in light of who you are
10 coming in and talking to them or --

11 MR. TSENG: We have a standardized survey. We
12 had a number of standardized surveys that we're testing.
13 We have like a one-page form, we have the five-page form,
14 and the 12-page form. We have different things that
15 we're field testing. So we've been using in this city
16 this kind of modified one-page form and we have a list of
17 standard questions and standard practices that we use.

18 BOARD MEMBER PAPARIAN: Let me put it a
19 different way. If you ask me how many calories I take it
20 in in a day --

21 MR. TSENG: I wouldn't ask you that. I would
22 say how much -- how many apples did you eat and that's
23 the way we ask it.

24 BOARD MEMBER PAPARIAN: I'll probably tell you I

25 ate more apples than I actually did and that I ate less

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1 chocolate than I actually did.

2 MR. TSENG: That's one thing we have to live
3 with.

4 BOARD MEMBER PAPARIAN: I wonder. The same
5 thing could be happening with some of these businesses
6 there too.

7 MR. TSENG: We understand there's always
8 potential bias in surveys and this is one reason we don't
9 do telephone surveys. We do primarily on-site so we can
10 verify the practice is actually happening.

11 There's a big difference between what we call a
12 telephone survey and an on-site survey. So we actually
13 go on-site and do what we call the functional
14 walk-through -- how many boxes did you put aside, how
15 many reams of paper did you buy, how many plastic pallets
16 did you use to substitute for the wood pallets, how many
17 of those did you recycle, how many did you grind up.

18 So we actually physically see the items in place
19 and how the materials are being used and that's how we
20 quantify. The quantification methodology, I know there's
21 a lot of questions on that. We work it -- with the USEPA
22 and the Waste Board was a technical editor of this
23 manual, but we had a manual on how to quantify source

24 reduction and that's -- the quantification methods are
25 listed in there. So we're not making up things.

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1 It's a standard set of materials, of questions
2 that we ask, and I was playing with the machine outside
3 and they're actually on the machine outside. That's the
4 stuff that we -- like double-side copying, how many
5 papers double-sided. That's the kind of questions we
6 ask. It's pretty conservative I think.

7 CHAIR MOULTON-PATTERSON: Thank you.

8 Mr. Eaton.

9 BOARD MEMBER EATON: Yeah. I just -- I think
10 you're onto something in terms of trying to help the
11 businesses. I don't think it's as great as you think it
12 is or the numbers verify or are accurate and that's just
13 a personal opinion. And I hope in the future that
14 somehow you'll be able to bring it there. In the
15 meantime, I can't go along with it simply to see these
16 kinds of numbers. They're like trampolines.

17 MR. TSENG: Okay. Well, I think 21 and 22
18 also, but those are very much lower diversion rates
19 because there's not much happening in those cities. I
20 think following I have a couple other coming up and
21 they're in the low 30s because there's just not that many
22 programs. It's really specific within --

23 BOARD MEMBER EATON: Do they pay for this
24 service from the city?

25 MR. TSENG: I think the contract with a bunch of

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1 my students to do this study, we've been doing basically
2 everything at cost and trying to keep the cost reasonable
3 for planning purposes for the cities.

4 CHAIR MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: Mr. Tseng and I had a
6 conversation a couple days ago because I went a little
7 bit nuts when I saw the 72,000 tons as well, but he
8 explained that half of it was source reduction and half
9 of it was waste.

10 When you do your random study, when you pick
11 these businesses, is it from a list that are arranged by
12 SIC codes?

13 MR. TSENG: The way it's actually done is it's
14 arranged by number of employees. We try to use the 80-20
15 rule. What we do is we take a business license or take a
16 Dunn and Bradstreet or ABI database that lists all the
17 potential businesses in the city that has licenses. So
18 we go with the biggest company first to the smallest and
19 we stratify it into a large business and small business
20 strata. With each strata they randomly sample. We use
21 either a number random generator or we just roll a dice

22 and say pick every fifth one so it's random within those.

23 That's why you have the variability.

24 BOARD MEMBER JONES: And if you went into one of

25 these businesses and they did basically zero recycling,

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1 everything got thrown into the Dumpster.

2 MR. TSENG: We got a lot of that.

3 BOARD MEMBER JONES: Then your extrapolation

4 shows --

5 MR. TSENG: Zero for them.

6 BOARD MEMBER JONES: For that whole SIC code;

7 right?

8 MR. TSENG: No. You're thinking about another

9 way of stratifying. You're thinking let's take a city,

10 put all the restaurants together, put all the financial

11 institutions together. We are actually doing that in Los

12 Angeles and Oakland, but those studies are \$2 to \$3

13 million studies because you have to do what's

14 statistically representative within each SIC code. And

15 because smaller jurisdictions don't have that kind of

16 money, what we did is we came up with a simplified method

17 that you can do a random, a still more accurate using

18 large and small business stratified -- stratum to get an

19 accurate calculation of what's going on.

20 BOARD MEMBER JONES: So your one business, that
21 one business with zero recycling and 100 percent
22 disposal --

23 MR. TSENG: Gets extrapolated zero and 100
24 percent disposal.

25 BOARD MEMBER JONES: Proportion to whatever that

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1 population was. Okay. It ain't brain surgery. It does
2 make me nuts sometimes when I see -- 72,958 is 60 -- it's
3 over 50 percent of your entire waste generation. I think
4 one thing that makes me comfortable is this is a 1999
5 base year.

6 MR. TSENG: 1998.

7 BOARD MEMBER JONES: 1998 study. So in the year
8 2000 if the numbers are going upside down, then we know.

9 MR. TSENG: Then we know. That's what I'm
10 saying. There's always cross-checks and what these
11 methodologies are designed to do is designed just to give
12 a tool for jurisdictions to be able to do the plan
13 cheaply. Without that, I really don't know what to do.

14 BOARD MEMBER JONES: Madam Chair.

15 CHAIR MOULTON-PATTERSON: Mr. Jones.

16 MR. TSENG: Any other questions?

17 BOARD MEMBER JONES: If there's no other
18 questions, I'll move adoption of Resolution 2000-283.

19 BOARD MEMBER MEDINA: Second.
20 CHAIR MOULTON-PATTERSON: I have a motion by
21 Mr. Jones, seconded by Mr. Medina, to approve Resolution
22 2000-283 to change the base year to 1998.
23 Is it necessary to read all this into the
24 record?
25 Secretary, would you call the roll please.

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1 BOARD SECRETARY: Eaton.
2 BOARD MEMBER EATON: No.
3 BOARD SECRETARY: Jones.
4 BOARD MEMBER JONES: Aye.
5 BOARD SECRETARY: Medina.
6 BOARD MEMBER MEDINA: Aye.
7 BOARD SECRETARY: Paparian.
8 BOARD MEMBER PAPARIAN: Aye.
9 BOARD SECRETARY: Roberti.
10 BOARD MEMBER ROBERTI: Aye.
11 BOARD SECRETARY: Moulton-Patterson.
12 CHAIR MOULTON-PATTERSON: Aye.
13 Item 21, Mr. Schmidle.
14 MR. SCHMIDLE: Madam Chair and Board Members,
15 Chris Schmidle again from the Office of Local Assistance.
16 This is Item 21, consideration of staff
17 recommendation to change the base year to 1998 for the

18 previously approved source reduction and recycling
19 element, consideration of staff recommendation regarding
20 completion of compliance order IWMA BR 99-60, and
21 consideration of staff recommendation on the 1997/1998

22 biennial review findings for the source reduction and
23 recycling element and household hazardous waste element
24 for the City of San Dimas in Los Angeles County.

25 The City of San Dimas has requested a change in

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1 the base year from 1990 to 1998. To estimate the waste
2 generation in 1998, the City used disposal data from the
3 Board's Disposal Reporting System and collected diversion
4 information from a series of 200 waste reduction and
5 recycling audits.

6 There is a minor change in what you have in
7 front of you. With this new base year, the City's 1998
8 diversion rate is 42 percent. What you have in your
9 agenda item is 43 percent. This is a very minor
10 correction to calculations due to an unresolved problem
11 in a landfill reporting waste as diversion. Although the
12 City has some documentation of the claim, they ask that
13 the tonnage be removed and the diversion rate be lowered
14 by 1 percent.

15 In terms of the compliance order, the Board

16 issued the City a compliance order at the September 21st,
17 1999 board meeting. The compliance order required the
18 City to develop a new generation study with the intent of
19 establishing a more accurate base year and to document
20 its program in implementing selected programs meeting the
21 diversion requirements. Staff has reviewed the City's
22 status reports and believes the City has complied with
23 all the requirements of the compliance order.
24 The staff also conducted a 1997/1998 biennial
25 review of the City's source reduction and recycling

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1 element and household hazardous waste element. The City
2 has reported that it has successfully implemented source
3 reduction and recycling and household hazardous waste
4 programs. Staff therefore recommends acceptance of the
5 city's biennial review findings.

6 That is the end of my presentation and a
7 representative of the City is here to answer questions
8 about the data or programs for the City.

9 CHAIR MOULTON-PATTERSON: Thank you,
10 Mr. Schmidle. Mr. Tseng is here on this item also to
11 answer questions.

12 Mr. Eaton, did you have any questions?

13 BOARD MEMBER EATON: No.

14 CHAIR MOULTON-PATTERSON: Any Board Members have

15 questions?

16 Mr. Jones.

17 BOARD MEMBER JONES: I'm going to make the
18 motion. I did talk to Mr. Tseng yesterday about where
19 this landfill salvage was. He identified it as Puente
20 and now you're telling me that some of it may have been
21 disposal and didn't get counted.

22 MR. SCHMIDLE: The City is not sure. Some of it
23 may be Peck Road.

24 BOARD MEMBER JONES: So they just took it out.

25 MR. SCHMIDLE: We just took it out to be

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1 conservative.

2 BOARD MEMBER JONES: Thank you very much.

3 Madam Chair.

4 CHAIR MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: I'll move adoption of
6 Resolution 2000-288 for the City of San Dimas.

7 BOARD MEMBER MEDINA: Second.

8 CHAIR MOULTON-PATTERSON: Motion by Mr. Jones,
9 second by Mr. Medina, to approve Resolution 2000-298.

10 Secretary, please call the roll.

11 BOARD SECRETARY: Eaton.

12 BOARD MEMBER EATON: No.

Please note: These transcripts are not individually reviewed and approved for accuracy.

13 BOARD SECRETARY: Jones.
14 BOARD MEMBER JONES: Aye.
15 BOARD SECRETARY: Medina.
16 BOARD MEMBER MEDINA: Aye.
17 BOARD SECRETARY: Paparian.
18 BOARD MEMBER PAPARIAN: Aye.
19 BOARD SECRETARY: Roberti.
20 BOARD MEMBER ROBERTI: Aye.
21 BOARD SECRETARY: Moulton-Patterson.
22 CHAIR MOULTON-PATTERSON: Aye.
23 Mr. Schmidle, Item Number 22.
24 MR. SCHMIDLE: Chairman and Board Members, once
25 again, Chris Schmidle from the Office of Local

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1 Assistance.
2 This is Item Number 22, consideration of staff
3 recommendation to change the base year to 1998 for the
4 previously approved source reduction and recycling
5 element, consideration of staff recommendation regarding
6 completion of compliance order IWMA BR 99-94, and
7 consideration of staff recommendation on the 1997/1998
8 biennial review findings for the source reduction and
9 recycling element and household hazardous waste element
10 for the City of Laguna Beach in Orange County.
11 The City of Laguna Beach has requested a change

12 in the base year from 1990 to 1998. To estimate the
13 waste generation in 1998, the City used disposal data
14 from the Board's Disposal Reporting System and collected
15 diversion information from business diversion surveys,
16 hauler weight tickets, county disposal reports, landfill
17 salvage reports and other types of data. The business
18 data was extrapolated from a sample of 200 audits.

19 Board staff has determined that the request has
20 been adequately documented and therefore recommends the
21 request for a new base year be approved.

22 In terms of the compliance order, the Board
23 issued the City a compliance order at the October 26th,
24 1999 board meeting. The compliance order required the
25 City to develop a new waste generation study based on

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1 1998 data and document its progress in implementing
2 selected programs and meeting diversion requirements.

3 Staff has reviewed the City's status report and
4 implementation of their local assistance plan and
5 believes the City has complied with all the requirements
6 of their compliance order.

7 In terms of the biennial review findings, staff
8 has conducted a 1997/1998 biennial review of the City's
9 source reduction and recycling element and household
10 hazardous waste element. The City has reported that it

11 has successfully implemented source reduction, recycling
12 and public education programs and household hazardous
13 waste programs.

14 Therefore, staff is recommending approval of the
15 City's 1997/1998 biennial review findings.

16 That is the end of my presentation. Once again,
17 a representative of the City is present to answer any
18 questions about the data or programs.

19 CHAIR MOULTON-PATTERSON: Thank you,
20 Mr. Schmidle.

21 I had one quick question, Mr. Tseng.

22 MR. TSENG: Yes.

23 CHAIR MOULTON-PATTERSON: In beachside cities
24 that have a lot of tourists.

25 MR. TSENG: Huge tourists.

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1 CHAIR MOULTON-PATTERSON: Are there special
2 considerations or how did you figure that in?

3 MR. TSENG: The tourist trash shows up in the
4 restaurant and hotels, so we made sure when the surveys
5 were done that we addressed the seasonality issues and
6 that was annualized. That's how we made sure, we
7 contact.

8 CHAIR MOULTON-PATTERSON: Thank you. Any other
9 questions?

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10 BOARD MEMBER JONES: Madam Chair.
11 CHAIR MOULTON-PATTERSON: Mr. Jones.
12 BOARD MEMBER JONES: I'll move adoption of
13 Resolution 2000-287, consideration of the recommendation
14 to change the base year and to approve the biennial
15 findings for the City of Laguna Beach.
16 BOARD MEMBER MEDINA: Second.
17 CHAIR MOULTON-PATTERSON: Mr. Jones moves,
18 Mr. Medina seconds Resolution 2000-287.
19 Would you call the roll, Madam Secretary.
20 BOARD SECRETARY: Eaton.
21 BOARD MEMBER EATON: No.
22 BOARD SECRETARY: Jones.
23 BOARD MEMBER JONES: Aye.
24 BOARD SECRETARY: Medina.
25 BOARD MEMBER MEDINA: Aye.

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1 BOARD SECRETARY: Paparian.
2 BOARD MEMBER PAPARIAN: Aye.
3 BOARD SECRETARY: Roberti.
4 BOARD MEMBER ROBERTI: Aye.
5 BOARD SECRETARY: Moulton-Patterson.
6 CHAIR MOULTON-PATTERSON: Aye.
7 Okay. Item Number 29. Mr. Schiavo.
8 MR. SCHIAVO: Let me get reorganized up

9 here.

10 Item Number 29 is consideration of approval of
11 contractors for scrap diversion projects at high volume
12 sites fiscal year 1999/2000, Contract Concept Number 58,
13 Contract Number IWM C-9061, and this presentation will be
14 made by Chris Kinsella of the Office of Local Assistance.

15 MS. KINSELLA: Good afternoon. Chris Kinsella
16 Office of Local Assistance.

17 The Board approved the scope of work for the
18 food scrap diversion projects at high volume sites at the
19 March 2000 board meeting. Funding of \$150,000 was made
20 available to local governments and/or school districts.
21 The RFP process was conducted between April 14th and May
22 31st, 2000.

23 The Board received 12 proposals. The 11
24 qualifying proposals were scored and ranked. The bid
25 opening was held June 12th, 2000. The selected

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1 contractors were based on the combination of lowest bid
2 and qualifying score of at least 85 percent.

3 Staff recommends that the Board approve the
4 following contractors for the food scrap diversion
5 projects at high volume sites and adopt Resolution Number
6 2000-279: The County of Santa Cruz Department of Public
7 Works for the amount of \$19,877; City and County of San

8 Francisco solid waste management program, \$27,400; City
9 of Indian Wells, \$31,390; West Contra Costa Integrated
10 Waste Management Authority, \$36,281; and Davis Joint
11 Unified School District for \$35,052, for a total of
12 \$150,000.

13 This concludes my presentation. Are there any
14 questions?

15 CHAIR MOULTON-PATTERSON: Thank you very much.
16 Board Members.
17 Mr. Paparian.

18 BOARD MEMBER PAPARIAN: The City of Indian Wells
19 is the tennis facility?

20 MS. KINSELLA: Yeah.

21 BOARD MEMBER PAPARIAN: I think it's great to
22 get into the area of public venues like that and I'm
23 hoping to see some more of board programs like that in
24 the future.

25 CHAIR MOULTON-PATTERSON: Thank you. Any other

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1 questions.

2 Do we have a motion? Did you want to make the
3 motion?

4 BOARD MEMBER JONES: I was hoping somebody else
5 would, but --

6 BOARD MEMBER MEDINA: I'll move it.

7 CHAIR MOULTON-PATTERSON: Okay. Mr. Medina
8 moves it with Mr. Jones seconding Resolution 2000-279 for
9 approval of contractors for food scrap diversion projects
10 at high volume sites, fiscal year 99-2000, Contract
11 Concept Number 58, Contract Concept IWM-C9061.

12 Secretary, please call the roll.

13 BOARD SECRETARY: Eaton.

14 BOARD MEMBER EATON: Aye.

15 BOARD SECRETARY: Jones.

16 BOARD MEMBER JONES: Aye.

17 BOARD SECRETARY: Medina.

18 BOARD MEMBER MEDINA: Aye.

19 BOARD SECRETARY: Paparian.

20 BOARD MEMBER PAPARIAN: Aye.

21 BOARD SECRETARY: Roberti.

22 BOARD MEMBER ROBERTI: Aye.

23 BOARD SECRETARY: Moulton-Patterson.

24 CHAIR MOULTON-PATTERSON: Aye.

25 Number 32. I guess we have a new group coming

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1 up. Thank you very much. Thank you.

2 Ms. Wohl, thank you. We're on Number 32.

3 MS. WOHL: Madam Chair, Board Members, Patti

4 Wohl, Deputy Director, Waste Prevention and Market

5 Development Division.

6 Item 32, consideration of approval of San
7 Joaquine County as contractor for the delta landscape
8 management outreach partnership fiscal year 1999/2000,
9 Contract Concept Number 26, will be presented by Kevin
10 Taylor.

11 MR. TAYLOR: Kevin Taylor, Supervisor of the
12 Organic Materials Management Section.

13 At its October 1999 meeting, the Board approved
14 \$290,000 to extend the Board's effort to implement local
15 government partnerships to promote the outreach of
16 environmental beneficial on-site landscape management and
17 organics procurement practices to local landscape
18 maintenance industries in the year 2000.

19 This item provides \$45,000 in partial funding to
20 the County of San Joaquine Department of Public Works to
21 be the contract manager and fiscal agent for the
22 partnership of local jurisdictions and allied agencies
23 that will specifically promote and implement the
24 objectives of the landscape management outreach program
25 in San Joaquine County. There's also matching funds from

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1 the jurisdiction for this project.

2 This project is one of several successful
3 landscape management outreach programs that have been

4 conducted in the last two years. The goal of these
5 partnerships is to reduce green materials generation and
6 disposal and local waste sheds, assist jurisdictions'
7 efforts with the mandated diversion requirements and
8 promote the use of recycled organic products in urban
9 landscapes.

10 Partners in the delta landscape management
11 outreach program are programs for providing matching
12 funds include unincorporated San Joaquine County and the
13 Cities of Escalon, Lathrop, Lodi, Manteca, Rippen,
14 Stockton, and Tracy. The \$45,000 will be used to promote
15 the sustainable through development of a landscape
16 industry directory; development of a landscape outreach
17 action program, which includes a section on current
18 practices and policies and plans for educational events,
19 tasks and cost estimates; development and distribution of
20 promotional and publicity materials; preparation and
21 distribution of guidance and support materials; and
22 conducting baseline and post-program surveys to determine
23 the effectiveness of the program.

24 That's the end of my presentation. Staff
25 recommends that the Board approve option one and adopt

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1 Resolution 2000-281 for Item 32 titled consideration of
2 approval of San Joaquine County as the contractor for the

3 delta landscape management outreach program.

4 CHAIR MOULTON-PATTERSON: Thank you very much,
5 Mr. Taylor.

6 Do we have any questions? If not, I'll
7 entertain a motion.

8 BOARD MEMBER MEDINA: I'd like to move approval
9 of Resolution 2000-281.

10 CHAIR MOULTON-PATTERSON: Thank you very much.

11 BOARD MEMBER ROBERTI: Second.

12 CHAIR MOULTON-PATTERSON: Mr. Medina moves,
13 Senator Roberti seconds Resolution Number 2000-281 for
14 approval of San Joaquine County as contractor for the
15 delta landscape management outreach partnership, Contract
16 Concept Number 26.

17 Would the secretary please call the roll.

18 BOARD SECRETARY: Eaton.

19 BOARD MEMBER EATON: Aye.

20 BOARD SECRETARY: Jones.

21 Medina.

22 BOARD MEMBER MEDINA: Aye.

23 BOARD SECRETARY: Paparian.

24 BOARD MEMBER PAPARIAN: Aye.

25 BOARD SECRETARY: Roberti.

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1 BOARD MEMBER ROBERTI: Aye.

2 BOARD SECRETARY: Moulton-Patterson.

3 CHAIR MOULTON-PATTERSON: Aye.

4 We'll leave the roll open for Item Number 32

5 please. Item Number 33.

6 MS. WOHL: Consideration of modifying Minnesota

7 Mining and Manufacturing Company's, 3M, rigid plastic

8 packaging container compliance agreement from requiring

9 compliance for the full year 2000 to requiring compliance

10 for the last six months of year 2000.

11 John Nuffer will present.

12 CHAIR MOULTON-PATTERSON: Thank you.

13 MR. NUFFER: Good afternoon, Madam Chair and

14 Board Members. This is John Nuffer with the Waste

15 Prevention and Market Development Division.

16 Agenda Item 33 asks to consider modifying the

17 rigid plastic packaging container compliance agreement

18 for Minnesota Mining and Manufacturing Company, that's

19 3M.

20 As a result of the Board's 1997 compliance

21 certification, eight companies were determined to have

22 been out of compliance with California's RPPC law in

23 1996. The Board signed compliance agreements with seven

24 of these companies and fined the eighth. The Board

25 signed compliance agreements with 3M, Dietzgen, Toro,

1 Masterchem, Loctite, Pennzoil-Quaker State, and Pep Boys.

2 Each of these companies is required to change
3 the way they do business to ensure that their rigid
4 plastic packaging complies with the law. This means
5 generally that they must either use less virgin resin in
6 their containers, which is considered lightweighting or
7 source reduction, or they must use more recycled plastic
8 in their containers.

9 If they choose to comply by lightweighting, they
10 must reduce the amount of virgin plastic used by 10
11 percent. If they choose to comply by using recycled
12 plastic or post-consumer resin, their containers must
13 have at least 25 percent post-consumer in them.

14 In each of the seven compliance agreements it
15 was noted that the Board would measure compliance over
16 the course of the full year 2000 or over the latter half
17 of the year. 3M, Dietzgen, Toro and Masterchem agreed to
18 achieve compliance and to be measured over the full year.
19 Loctite, Pennzoil-Quaker State and Pep Boys were to be
20 measured from July through December of this year. The
21 measurement periods were negotiated between board staff
22 and the companies so the compliance would be achieved by
23 no later than the year-end. 3M's measurement period is
24 the full year. 3M is now asking the Board to modify
25 their agreement so that their measurement period is July

1 through December.

2 As a little background, 3M sells 56,000 products
3 worldwide and they sell over 300 products in rigid
4 plastic packaging containers. They report to be
5 aggressively pursuing a program to achieve compliance and
6 report to be making good progress in making necessary
7 changes. However, they were counting on being able to
8 substitute a one-gallon plastic container for a metal one
9 in order to reduce the amount of virgin plastic they use
10 by more than a million grams. Unfortunately, the
11 regulations don't allow that, and staff communicated that
12 to them.

13 As a result, 3M needs more time to do additional
14 testing to get that million grams of source reduction and
15 lightweighting that they were counting on.

16 In summary, 3M was the first company to contact
17 the Board once they received the 1996 compliance
18 certification forms and they've been very forthright and
19 cooperative with staff. However, they misinterpreted the
20 regulations and as a result counted on substituting a
21 plastic container for a metal one when, in fact, they
22 can't do that.

23 They are, therefore, requesting a different
24 compliance measurement period than in their compliance
25 agreement. They would like to be judged over the last

1 six months of the year 2000 rather than over the entire
2 year. This measurement period would be the same as for
3 Loctite, which they claim is a direct competitor.

4 A couple days ago staff received a letter from
5 3M detailing their efforts, which we distributed to your
6 offices and copies are available on the back table.

7 Staff is recommending that the Board approve
8 3M's request to modify their compliance agreement so that
9 compliance is measured during the latter half of this
10 year and adopt Resolution 2000-297.

11 That concludes my presentation and I'd be happy
12 to answer questions.

13 CHAIR MOULTON-PATTERSON: Thank you,
14 Mr. Nuffer.

15 BOARD MEMBER JONES: Madam Chair.

16 CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: I'll move adoption of
18 Resolution 2000-297.

19 BOARD MEMBER MEDINA: I'd like to second the
20 resolution, the motion.

21 CHAIR MOULTON-PATTERSON: Moved by Mr. Jones,
22 seconded by Mr. Medina, to approve -- for approval of
23 Resolution 2000-297 for modifying Minnesota Mining and
24 Manufacturing Company's rigid plastic packaging container
25 compliance agreement from requiring compliance for the

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1 full year 2000 to requiring compliance to the last six
2 months.

3 Would the secretary please call the roll.

4 BOARD SECRETARY: Eaton.

5 BOARD MEMBER EATON: Aye.

6 BOARD SECRETARY: Jones.

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY: Medina.

9 BOARD MEMBER MEDINA: Aye.

10 BOARD SECRETARY: Paparian.

11 BOARD MEMBER PAPARIAN: Aye.

12 BOARD SECRETARY: Roberti.

13 BOARD MEMBER ROBERTI: Aye.

14 BOARD SECRETARY: Moulton-Patterson.

15 CHAIR MOULTON-PATTERSON: Aye.

16 The roll is open on Item 32 for Mr. Jones.

17 BOARD MEMBER JONES: Aye.

18 CHAIR MOULTON-PATTERSON: Thank you.

19 We're now on Item Number 34. Ms. Wohl.

20 MS. WOHL: Since the inception of the recycling
21 market development revolving loan program, the Board has

22 approved 92 loans totaling \$45 million. The Board has
23 already approved four loans totaling \$3.7 million that
24 will fund in the upcoming fiscal year 2000-2001.

25 Today staff will present one loan of \$650,000.

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1 That will also fund in the next fiscal year. If the loan
2 today is approved, then approximately \$6.8 million will
3 remain in the sub-account. Staff will be bringing an
4 item forward next month to discuss the loan program
5 project eligibility criteria and a priority system to
6 fund applications.

7 Today's Item 34, consideration of approval of
8 the recycling market development revolving loan program
9 application for Pre/Plastics, Inc. will be presented by
10 Jim La Tanner.

11 CHAIR MOULTON-PATTERSON: Thank you.

12 MR. LA TANNER: Good afternoon, Board Members.
13 My name is Jim La Tanner, Manager of the Recycling Market
14 Development Loan Program.

15 Agenda Item 34 presents for approval
16 Pre/Plastics, Inc. application, recycling market
17 development revolving loan program in the amount of
18 \$650,000. The project is located in Auburn, California
19 near the municipal airport, which is in the Placer County
20 Recycling Market Development Zone. Loan proceeds of
21 \$550,000 will be used as part of a construction take-out
22 on a 1.7 commercial property including a 20,000 square
23 foot metal building.

24 The remaining \$100,000 will be used to purchase

25 a new plastic injection molder. This will allow

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1 Pre/Plastics to move from the current facility that is
2 leased to a property they currently own that they will
3 put a building on.

4 As a result of the recycling project,
5 Pre/Plastics obtains post-consumer plastic resin from
6 various processors and manufacturers to inject molded
7 products, some of which have 100 percent recycled
8 content. Some examples are snow ski racks, car stereo
9 installation kits, cores for computer disc polishing
10 tape, castings for satellite global positioning
11 equipment, and bot dots used as highway markers.

12 As a result of this loan, an additional 70 tons
13 of plastic will be diverted annually from landfills.

14 Permitting and Enforcement has reviewed the
15 project and reports that no solid waste permit is
16 required. Diversion, Planning and Local Assistance has
17 reviewed the project and determined that the material
18 used are normally disposed of in a landfill. The loan
19 committee met on June 15th and approved the loan as
20 presented without any additional conditions.

21 Staff recommends the Board approve the loan
22 contained in Resolution 2000-292 to Pre/Plastics in the
23 amount of \$650,000.

24 Are there any questions?

25 CHAIR MOULTON-PATTERSON: Thank you, Mr. La

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1 Tanner. Questions.

2 Hearing none, Mr. Jones.

3 BOARD MEMBER JONES: Madam Chair, I'll move

4 adoption of Resolution 2000-292, consideration of

5 approval of a recycling market development revolving loan

6 program application for Pre/Plastics, Inc.

7 BOARD MEMBER EATON: Second.

8 CHAIR MOULTON-PATTERSON: Moved by Mr. Jones,

9 seconded by Mr. Eaton for Resolution 2000-292 for

10 approval of the recycling application for Pre/Plastics,

11 Inc.

12 Secretary, please call the roll.

13 BOARD SECRETARY: Eaton.

14 BOARD MEMBER EATON: Aye.

15 BOARD SECRETARY: Jones.

16 BOARD MEMBER JONES: Aye.

17 BOARD SECRETARY: Medina.

18 BOARD MEMBER MEDINA: Aye.

19 BOARD SECRETARY: Paparian.

20 BOARD MEMBER PAPARIAN: Aye.

21 BOARD SECRETARY: Roberti.

22 BOARD MEMBER ROBERTI: Aye.

23 BOARD SECRETARY: Moulton-Patterson.

24 CHAIR MOULTON-PATTERSON: Aye.

25 Item 36.

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1 MS. WOHL: Consideration of approval of the
2 Department of General Services Procurement Division as
3 contractor for the state agency reuse enhancement
4 contract, Project Recycle, Contract Concept Number 56(2),
5 and will be presented by Jeff Hunts.

6 MR. HUNTS: Good afternoon, Board Members. I'm
7 Jeff Hunts. I'm the supervisor of the Business Resource
8 Efficiency Unit within the Waste Prevention and Market
9 Development Division. This item requests that the Board
10 consider and approve an interagency with the Department
11 of General Services to implement a state agency reuse
12 enhancement contract.

13 At the October meeting last year, the Board
14 approved funding for a major reuse initiative as part of
15 its contract concept consideration. A component of that
16 contract concept was this state agency reuse enhancement
17 facet. Earlier today the Board approved on consent the
18 scope of work for this interagency agreement.

19 Staff believes that this proposed agreement is
20 an excellent opportunity for the Board to partner with
21 another state agency that has routine contact with all

22 other state agencies. This agreement will decrease the
23 rate of disposal of materials that state agencies
24 generate both on-site as well as from surplus property
25 warehouse, thereby assisting in the achievement of the

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1 goals of AB 75.

2 The State Agency Buy Recycle Program or
3 Campaign, SABRC, will also be assisted by this agreement
4 since qualifying items obtained through property
5 re-utilization could count towards SABRC requirements.

6 Staff recommends that the Board approve this
7 agreement and adopt Resolution Number 2000-296.

8 CHAIR MOULTON-PATTERSON: Thank you, Mr. Hunts.
9 Any questions?

10 BOARD MEMBER JONES: Madam Chair.

11 CHAIR MOULTON-PATTERSON: Mr. Jones.

12 BOARD MEMBER JONES: It's one of those days.

13 I'd like to move adoption of Resolution 2000-296
14 for the consideration of approval of Department of
15 General Services Procurement Division as contractor for
16 the state agency reuse enhancement contract, Project
17 Recycle, Concept Number 56.

18 CHAIR MOULTON-PATTERSON: I'll second.

19 BOARD MEMBER MEDINA: Second.

20 Moved by Mr. Jones, seconded by Mr. Medina

21 Resolution 2000-296.

22 Would the secretary please call the roll.

23 BOARD SECRETARY: Eaton.

24 BOARD MEMBER EATON: Aye.

25 BOARD SECRETARY: Jones.

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1 BOARD MEMBER JONES: Aye.

2 BOARD SECRETARY: Medina.

3 BOARD MEMBER MEDINA: Aye.

4 BOARD SECRETARY: Paparian.

5 BOARD MEMBER PAPARIAN: Aye.

6 BOARD SECRETARY: Roberti.

7 BOARD MEMBER ROBERTI: Aye.

8 BOARD SECRETARY: Moulton-Patterson.

9 CHAIR MOULTON-PATTERSON: Aye.

10 Item Number 37.

11 MS. WOHL: Consideration of approval of the
12 proposed scoring criteria and evaluation process for the
13 California reuse assistance grants fiscal year 99-2000,
14 Contract Concept Number 56(1), and will also be presented
15 by Jeff Hunts.

16 MR. HUNTS: This item is the final component to
17 the reuse initiative that was approved by the Board last
18 October. This agenda item presents the proposed general
19 review and preference criteria as well as procedures for

20 evaluating assistance grants.

21 The attachment to this item contains the general
22 review criteria which are weighted fairly heavily in the
23 need and objectives areas. I think that the items of
24 interest would be the preference criteria. Should an
25 applicant obtain a score of 70 on general review

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1 criteria, 70 out of a hundred, they would be eligible to
2 have their applications considered for preference
3 criteria.

4 Staff is proposing that applications that
5 address key priority waste types or material types,
6 specifically organics, construction and demolition
7 material, electronics and materials intended for use in
8 an educational setting be given preference criteria, as
9 well as the expansion of existing programs to include
10 additional waste or material types; applications that
11 would result in projects that are visible in educational
12 be considered for preference, as well as the recipient of
13 the reused materials, if they are an educational
14 institution or non-profit group; and finally, projects
15 that would provide vocational training through the
16 operation of the project should be considered with
17 preference.

18 Staff recommend the Board adopt or approve the

19 proposed scoring and evaluation criteria and adopt

20 Resolution 2000 --

21 CHAIR MOULTON-PATTERSON: 2000-294.

22 MR. HUNTS: Yeah.

23 CHAIR MOULTON-PATTERSON: Thank you very much,

24 Mr. Hunts.

25 Senator Roberti.

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1 BOARD MEMBER ROBERTI: Just very briefly.

2 This is pursuant, I guess, to a Board direction

3 a few months ago and I want to commend the staff for

4 putting it together and this is an excellent way of

5 showing that reuse is part of our hierarchy as well as

6 recycling. It's sometimes lost. We have programs like

7 L.A. Share who do excellent work, and sometimes in the

8 load of work that we have in other areas the reuse part

9 seems to be forgotten. So I'm glad it's before

10 us.

11 Mr. Jones, I'll move Resolution 2000-294.

12 (Laughter)

13 BOARD MEMBER MEDINA: Second.

14 CHAIR MOULTON-PATTERSON: Moved by Senator

15 Roberti, seconded by Mr. Medina, Resolution 2000-294 for

16 approval of the proposed scoring criteria and evaluation

17 process for the California reuse assistance grants,

18 fiscal year 99-2000, Contract Concept Number 56(1).

19 Would the secretary call the roll please.

20 BOARD SECRETARY: Eaton.

21 BOARD MEMBER EATON: Aye.

22 BOARD SECRETARY: Jones.

23 BOARD MEMBER JONES: Aye.

24 BOARD SECRETARY: Medina.

25 BOARD MEMBER MEDINA: Aye.

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1 BOARD SECRETARY: Paparian.

2 BOARD MEMBER PAPARIAN: Aye.

3 BOARD SECRETARY: Roberti.

4 BOARD MEMBER ROBERTI: Aye.

5 BOARD SECRETARY: Moulton-Patterson.

6 CHAIR MOULTON-PATTERSON: Aye.

7 Before I call -- that was our last item.

8 Before I call for any public comments, I would

9 like to welcome Secretary Hickox to our meeting.

10 Welcome. We're glad to have you.

11 Is there any public comment prior to our

12 adjournment? Any speaker slips?

13 Hearing none, I would just like to say thank you

14 so much to my Board colleagues for all their support and

15 the staff for helping me through my first meeting.

16 Thank you very much and this meeting is

17 adjourned.

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5 I, Terri L. Emery, CSR 11598, a Certified
6 Shorthand Reporter in and for the State of California,
7 do hereby certify:

8 That the foregoing proceedings were taken
9 down by me in shorthand at the time and place named
10 therein and was thereafter transcribed under my
11 supervision; that this transcript contains a full, true
12 and correct record of the proceedings which took place
13 at the time and place set forth in the caption hereto.

14

15

16 I further certify that I have no interest
17 in the event of the action.

18

19

20 EXECUTED this 19th day of July, 2000.

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Terri L. Emery

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